

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 3152 OF 2018

Deepak Kanegaonkar

... Petitioner

Vs.

State of Maharashtra

... Respondent

...

Ms. Swapna Kode I/by Mr. Krishikesh Mundargi for the Petitioner.
Mr. A.R. Patil, APP for the Respondent-State.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 26th JULY, 2018.

P.C.

1. The petitioner is facing prosecution vide Sessions Case No. 122 of 2010 pending before the learned Additional Sessions Judge Thane for the offence punishable under Section 376, 493, 420, 323 and 494 of Indian Penal Code in connection with C.R. No. 1340 of 2009. The trial had commenced and the prosecution examined all witnesses. Subsequently, the statement of the accused was also recorded under Section 313 of Code of Criminal Procedure. Petitioner intends to lead the defence evidence. However, on account of his illness, the petitioner could not remain present. The petitioner, therefore, through his advocate made application before the trial Court for adjournment. The recent application was

preferred on 16th July, 2018 and the learned Sessions Judge by order dated 16th July, 2018 rejected the said application and placed the matter for final argument on 27th July, 2018. While rejecting the said application, it was observed that sufficient chance was given for defence evidence.

2. The petitioner's contention is that he was suffering from Colon Cancer. Medical certificate annexed to the petition. It is submitted that on account of serious ailment petitioner was required to undergo treatment of Chemo therapy and therefore, he could not attend the trial Court for adducing the defence evidence.

3. Learned counsel for the applicant submits that presently applicant has been admitted in the hospital for Chemo therapy and is likely to be discharged on 28th July, 2018. It is further submitted on instructions that the applicant would remain present before the trial Court on 6th August, 2018 for adducing defence evidence.

4. Hence, I pass the following order.

ORDER

- (i) Impugned order dated 16th July, 2018 is set aside.
- (ii) Petitioner is directed to remain present before the trial Court on 6th August, 2018 for adducing defence evidence;

- (iii) The trial Court is directed to allow the petitioner to lead the defence evidence;
- (iv) Petition stands disposed of;
- (v) Parties to act on an authenticated copy of this order.

Sachidanand
Kuttan Nair

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(PRAKASH D. NAIK, J.)