IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3254 OF 2018

TULJO NARAYANDAS LAKHANI)...PETITIONER

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Pawan Mali, Advocate for the Petitioner.

Ms.Anamika Malhotra, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 1st AUGUST 2018

P.C. :

1 This petition came up before this court because of the Standing Order regarding not placing the matters of Shri Pawan Mali Advocate before Honourable Shri Justice P. D. Naik.

2 By this petition, petitioner Tuljo Lakhani, who is aged about 77 years, is praying for directing the learned Judicial Magistrate First Class (JMFC) at Pimpri, District Pune, and the learned Metropolitan Magistrate, 72nd Court at Vikhroli, Mumbai,

to expedite hearing of Regular Criminal Case No.1014 of 2016 arising out of C.R.No.218 of 2015 and that of PW/54/2017 arising out of C.R.No.261 of 2016.

3 Heard Mr.Pawan Mali, the learned counsel appearing for the petitioner. He argued that the First Information Report (FIR) of Crime No.218 of 2015 itself shows that in the year 2015, the petitioner, who is the First Informant, was 73 years old. Now the petitioner is 77 years old. It is further argued that on the basis of the FIR lodged by the petitioner, Crime No.218 of 2015 came to be registered with Pimpri Police Station and the investigation of that crime has resulted in filing of the charge-sheet on 21st November 2016 in the court of the learned JMFC, District Pune. The Regular Criminal Case No.1014 of 2016 came to be registered accordingly, but still that case is shown on unready board. It is further argued that another Crime bearing No.261 of 2016 came to be registered with Tilak Nagar Police Station on the basis of report lodged by Dr.Sudha Vyas, Principal of K.J.Somaiya College, Mumbai. The petitioner had intervened in the anticipatory bail

applications moved by the accused in that crime, even up to the Supreme Court and apart from that, he has also intervened in the writ petition filed by the accused therein, which was subsequently dismissed by this court. That crime was registered as for securing admission in Bachelor of Commerce Course conducted by Periyar University, the accused submitted forged and fabricated mark-sheets of K.J.Somaiya College, Mumbai. By drawing my attention to the Circular dated 3rd August 2009 issued by this court, Mr.Mali, the learned counsel argued that, considering the advanced age of 77 years of the petitioner, hearing of both these criminal cases needs to be taken up expeditiously. It is further argued that the petitioner is the star witness for the prosecution in both those criminal cases, and considering the policy of this court, it is expected that trial of both criminal cases should be conducted expeditiously, by recording evidence of the petitioner during his life time. The learned counsel further argued that according to the policy of this court, even the Principal District and Sessions Judges all over Maharashtra are directed to instruct the Judicial Officers to give priority to the cases relating to senior citizens.

4 The learned APP fairly accepted the fact that according to the policy of this court, cases relating to the senior citizens are required to be disposed of expeditiously.

5 I have considered the rival submissions and perused the material placed on record. Petitioner Tuljo Lakhani is the Chief Executive Officer of the Seva Vikas Co-operative Bank Limited (hereinafter referred to as the "Bank"). According to By-Laws of the said Bank, for election to the post of the Director of the said Bank, candidate from the Open Category is supposed to be a graduate from any recognized university. Elections to the post of Directors of that Bank for 2014-15 to 2019-20 were declared. The election was to be held on 21st January 2015. The accused in Crime No.218 of 2015, who happens to be the Ex-Director of the Bank, submitted his nomination form by annexing the Provisional Certificate and mark list of Periyar University, Salem, Tamil Nadu, secured from the Success Institute, Pune. That nomination form came to be rejected and it was revealed that the Provisional Certificate annexed with that nomination

form was not issued by the Periyar University, Salem, Tamil Nadu. The same is forged and fabricated document. That is how, the petitioner, being the Chief Executive Officer of the Bank, lodged the FIR on 3rd April 2015 which resulted in registration of Crime No.218 of 2015 with Pimpri Police Station, District Pune, for offences punishable under Sections 465, 467, 468, 471 read with 34 of the Indian Penal Code. The charge-sheet filed on completion of investigation has resulted in registration of Regular Criminal Case No.1014 of 2016 which is pending on file of the learned JMFC at Pimpri, District Pune. It is shown on unready board of that court, though the alleged crime was committed in the year 2015. Undisputedly, even the Charge is not frame in that case.

6 It is seen from the record produced that during the course of investigation in Crime No.218 of 2015, registered with Pimpri Police Station, District Pune, the police made some correspondence with the Principal of K.J.Somaiya College at Mumbai in respect of the mark sheets of First Year Bachelor of

Arts and Second Year Bachelor of Arts purportedly issued by the said college, which were used by the accused for securing admission to Bachelor of Commerce Course of the Periyar University, Salem, Tamil Nadu. Those mark sheets of First Year Bachelor of Arts (F.Y.B.A.) and Second Year Bachelor of Arts (S.Y.B.A.) were found to be forged and bogus. That is how, Dr.Sudha Vyas, Principal of K.J.Somaiya College, Mumbai, lodged the FIR with Tilak Nagar Police Station, Mumbai, and accordingly, Crime No.261 of 2016 for offences punishable under Sections 465, 467, 468 and 471 read with 34 of the Indian Penal Code came to be registered at the said Police Station. On conclusion of investigation and upon filing the charge-sheet, Criminal Case No.PW/54/2017 came to be registered and is reported pending on file of the learned Metropolitan Magistrate, 72nd Court, Vikhroli, Mumbai, and it is shown as "Not heard case." In this criminal case of the year 2016, even the Charge is not framed as yet.

7 It is seen from the record that the petitioner had intervened in the anticipatory bail application filed by the accused

in Crime No.261 of 2016 registered with Tilak Nagar Police Station, Mumbai, before the Sessions court, this court, as well as the Supreme court. He has also intervened in the Criminal Application No.1118 of 2016 filed by the accused for quashing C.R.No.261 of 2016 registered with Tilak Nagar Police Station, Mumbai, before this court. Record of investigation shows that the petitioner was 72 years of age in the year 2015.

8 The petitioner has annexed a Circular, issued by this court on 3rd August 2009, to the petition. By that Circular, this court directed the courts subordinate to it, to give precedence for hearing and final disposal of the cases wherein one of the parties has attained the age of 60 years or above. It is also seen that the courts throughout Maharashtra are directed by this court to give priority to the cases relating to senior citizens. Even the Principal District Judges in the State are directed recently by this court to instruct the Judicial Officers to give priority to the cases relating to senior citizens.

9 It is seen from the record that the petitioner is the prime witness in the subject criminal cases. Now he is 77 years of age, as stated by the learned counsel appearing for the petitioner. As such, he can legitimately expect that hearing of the criminal cases should be conducted expeditiously, so that his evidence could be recorded in his life time. Speedy justice is component of social justice as the community as a whole is concerned in the criminals being finally punished within a reasonable time and the innocent being absolved from the inordinate ordeal of criminal proceedings. Right to speedy trial is now recognized as a fundamental right implicit in Article 21 of the Constitution. This court has already framed the policy to expedite cases relating to senior citizens by giving top priority to them.

10 In this view of the matter, the writ petition is disposed of with a direction to the trial courts to conduct hearing of Regular Criminal Case No.1014 of 2016 arising out of Crime No.218 of 2015, registered at Pimpri Police Station, District Pune, pending on the file of the learned JMFC, Pimpri, Pune, as well as

that of Criminal Case bearing No.PW/54/2017 pending on file of the learned Metropolitan Magistrate, 72nd Court, Vikhroli, Mumbai, arising out of Crime No.261 of 2016, registered with Tilak Nagar Police Station, Mumbai, expeditiously and to complete the trial of those cases within the period of 8 months from the date of communication of this order.

11 The writ petition is accordingly disposed of.

(A. M. BADAR, J.)

Arti Vilas Khatate

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Date: 2018.08.02 15:11:59 +0530