

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

WRIT PETITION NO. 3572 OF 2018

Salman Mohd. Salim Khan

... Petitioner

Vs.

State of Maharashtra

... Respondent

...

Mr. P.C.Das I/by P.C. Das & Associates for applicant.

Mr. Arfan Sait, APP for the Respondent-State.

Mr. T.J. Pandian for the Respondent No.2

Mr. Amit Kumar, ASI RPF B Yeulla is present

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CORAM : PRAKASH D. NAIK, J.

DATE : 27th SEPTEMBER, 2018.

P.C.

1. Petitioner challenges the order passed by the Additional Sessions Judge cancelling bail granted to the applicant. Said order was passed on 20th July, 2018. Applicant was granted bail by order dated 4th June, 2018. The applicant was directed to deposit an amount of Rs.20 Lakhs within a period of 45 days from the date of the order. Subsequently, applicant has preferred an application for relaxation of that condition. Prosecution has filed their say opposing the said relief. Although, the order was passed on 4th June 2018, the amount as directed by the Court while granting bail was not deposited, therefore, the Sessions Court cancelled the

bail.

2. Learned counsel for the respondent submits that the applicant is absconding. Learned counsel for the applicant on earlier date of hearing submitted on instructions that applicant would deposit the amount of Rs.20,00,000/- within a period of four weeks. The matter was listed before this Court on 26th September, 2018. Counsel for the applicant had tendered an undertaking purportedly signed by the petitioner stating that he would deposit Rs.20,00,000/- in the trial Court within one month. Said undertaking is notarized. The petitioner was not identified by advocate in the undertaking.

3. This Court has directed the petitioner to remain present before the Court on 27th September, 2018. Interim protection of not to arrest was also granted to petitioner. Learned counsel for the petitioner now submits that petitioner is not in a position to appear before this Court and petition may be allowed to withdrawn. Learned counsel for the respondent strongly opposed the prayer for withdrawal of the petition on the ground that conduct of the petitioner is required to be deprecated and he has been absconding. Bail granted to petitioner was cancelled on 20th July, 2018. Since then he is not available. With a view to give

him opportunity to make the deposit the amount he was permitted to file undertaking to deposit amount. The undertaking purportedly signed by petitioner and notarised by notary was tendered but the petitioner was not identified by any advocate in the undertaking. Hence, he was directed to remain present in the Court with interim protection. The fact that he has failed to remain present before Court speaks volume of doubt about genuineness of undertaking. The petitioner had volunteered to deposit amount while granted bail by subordinate Court. In the circumstances, the petition is dismissed.

(PRAKASH D. NAIK, J.)

Sachidanand
Kuttan Nair

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