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Nalawade

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2515 OF 2018

Akshay @ Balya Suraj Sule ..Applicant.
vs.
The State of Maharashtra ..Respondent.

Mrs. Yogita Chitnis for the Applicant.
Mrs. J.S.Lohokare, APP for the Respondent-State.
Mr. Mohan Thakur,ACP. Div. 1 Nashik present in Court.

CORAM :A.S.GADKARI, J.
DATE : 7th December, 2018

P.C.

1. This is an application under Section 439 of the Code of Criminal Procedure for bail in CR No.I-212/2013 now culminated into Special (MCOC) Case No.2/2013 pending on the file of Special Court under MCOC Act at Nashik.

2. The record indicates that, by an Order dated 4.8.2014 the applicant was directed to be released on bail in MCOC Special Case No.2/2013 under Sections 343, 364A, 302, 201, 506, 120B of the Indian Penal Code, under Section 135 of the Maharashtra Police Act and Section 25 of the Arms Act apart from the offences punishable under Sections 3(1)(II) 3(2) and 3(4) of the MCOC Act pending before the Special Court under

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MCOC Act at Nashik. This Court granted bail to the applicant on certain conditions. The said order was challenged by the State of Maharashtra before the Hon'ble Supreme Court by way of Special leave to Appeal (Cri.) No.14994/2015. The Supreme Court by its Order dated 11.9.2015 was pleased to dismiss the said petition upholding that the Order dated 4.8.2014 passed by this Court.

The record further indicates that, on 27.9.2017 the applicant remained absent before the Trial Court and therefore, the Trial Court was pleased to issue non bailable warrant against the applicant. After knowledge of issuance of Non bailable warrant the applicant appeared before the Trial Court and filed an application for cancellation of said warrant. The Trial Court rejected the said application on the ground that the said warrant is already executed and therefore, there is no question of cancelling the same. The applicant is in Jail since 28.9.2017. It is a matter of record that, the applicant remained absent before the Trial Court only on one occasion i.e. on 27.9.2017 after his release from Jail and in pursuance of the non bailable warrant issued by the Trial Court the applicant has been arrested and now he is in Jail. It is to be noted here that,

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in Order dated 4.8.2014 passed in BA No.1195/2014 by my predecessor in title, it has been observed that, there are reasonable ground believing that the applicant is not guilty of an offence punishable under the MCOC Act.

In view of the above, the applicant can be released on bail.

3. Hence, the following order.

a) The applicant be released on bail in CR No.I-212/2013 now culminated into Special (MCOC) Case No.2/2013 pending on the file of Special Court under MCOC Act at Nashik on his furnishing PR bond of Rs.25,000/-with one or two solvent local sureties in the like amount.

b) After his release from Jail the applicant shall attend each and every date before the Trial Court without any excuse.

c) The applicant shall not tamper with the evidence and /or influence the prosecution witnesses.

Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)