

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

CRIMINAL BAIL APPLICATION NO.3018 OF 2018

Mahesh Narayan Panibhate		Applicant
<u>Vs.</u>		
The State of Maharashtra		Respondent

Mr. Satyavrut Joshi for the applicant.
Mr. S.S. Pednekar, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 12th December 2018

P.C.:

1 Heard.

2 This is a subsequent application seeking enlargement on bail. The earlier application was rejected on merits on 29th September 2016. This Court had directed the Sessions Judge, seized with Sessions Case No.419 of 2014 to separate the trial of the absconding accused, if necessary, and to proceed with the trial forthwith. It appears that the learned Sessions Judge had anticipated that the absconding accused would either surrender or would be arrested and therefore the said direction had not taken effect.

3 The order passed by this Court was challenged before the Apex Court and by an order dated 4th October 2017, the Special Leave Petition was dismissed.

4 Learned counsel for the applicant vehemently submits that there are inherent lacunae in the case of the investigation. It was also pointed out that at this stage, the investigation machinery is not sure as to who had shot the fire arm. Learned counsel also submits that this Court had taken into consideration the criminal antecedents of the applicant but as on today, he is acquitted of the offence punishable under Section 379 of Indian Penal Code in Regular Criminal Case No. 2677 of 2014 vide judgment and order dated 19th September 2014 by the learned Additional Chief Judicial Magistrate, Pune.

5 Upon perusal of the said judgment, it appears that the entire case of the prosecution would rest upon the evidence of PW-2 and that he has resiled from his earlier statement and has not proved

the recovery panchanama and also that there is a variance in the number of the motorcycle, which was used in the present case, as well as the motorcycle, which was purportedly recovered at the instance of the applicant. Prima facie, there was no change in the circumstances and therefore, the application seeking enlargement on bail deserves to be rejected.

6 However, the learned Sessions Judge seized with Sessions Case No. 419 of 2014 is hereby requested to conclude recording of evidence as far as possible on/or before 30th May 2019, since the applicant has been in custody from 13th March 2014.

(Smt. Sadhana S. Jadhav, J)