

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CRIMINAL APPELLATE JURISDICTION*****CRIMINAL APPEAL NO.1053 OF 2017**

Arshi Asif Qureshi.] ... Appellant /
Orig. Accd. No.1

Versus

State of Maharashtra.] ... Respondent

Mr. Mohammad S. i/b I. A. Khan & Associates for Appellant.
Mr. A. M. Chimalkar a/w N. S. Taralgatti, Spl.P.P. for State - National
Investigating Agency.

**CORAM :- B. R. GAVAI &
SARANG V. KOTWAL, JJ.**
DATE :- 11 JULY, 2018

P. C. :-

1. This Appeal challenges the Order dated 06/11/2017 passed by the learned Special Judge, rejecting the application filed by the Appellant / accused no.1 for grant of bail under Section 167 (2) of the Cr.P.C.

2. Learned Counsel for the Appellant submitted that the impugned order is liable to be quashed and set aside on three grounds. Firstly, an opportunity was not given to the Appellant to

contest the application filed by the Respondent - National Investigating Agency ('NIA') under Section 43D(2)(b) of the Unlawful Activities (Prevention) Act, 1967, inasmuch as, neither the Appellant was served nor was he informed about the application being made by the NIA.

3. It is further submitted that the impugned order is also liable to be set aside on the ground that though the application was filed by the Respondent on 21/11/2016, the same was decided on the very same day. The third ground on which the order is challenged is that the application was not supported by the report of the Public Prosecutor but was only filed under the signature of the Investigating Officer.

4. Undisputedly, the charge-sheet is filed within the period as was extended by the learned Special Judge vide order dated 21/11/2016.

5. Insofar as the ground regarding not giving of opportunity is concerned, it is revealed that the report was submitted by the

investigating agency before the learned trial Judge that though a copy of the application was sought to be served on the accused through the Jail Superintendent, both of them had refused to accept the copy of the application. The Roznama would also reveal that the application was filed by the NIA on 16/11/2016. A perusal of the Roznama would also reveal that when the matter was called out on 21/11/2016, the Advocate for the accused was also not present. When the accused has refused to accept the copy of the application and when the Advocate chose not to appear before the Court, the Court cannot be faulted with deciding the matter.

6. The Roznama would also reveal that the application was, in fact, filed on 15/11/2016.

7. In that view of the matter, we do not find that case is made out for interference. The Appeal stands rejected.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)