

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION NO.1620/2018
IN CRIMINAL APPLICATION NO.153/2010 (D)

Tirath Prakashrao Chavan ..vs.. State of Maharashtra through PSO P.S. City
Kotwali, Akola

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. N. R. Tekade, Advocate for applicant.
Ms R. Kalia, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.
DATED : SEPTEMBER 26, 2018

1. This is an application under Section 439 of the Code of Criminal Procedure for bail and also for modification of order dated 05.05.2010.
2. I have heard Mr. Tekade, learned counsel for the applicant and Ms Kalia, learned A.P.P. for non applicant-State.
3. The applicant is one of the accused in Crime No. 118/2007 registered with Police Station, City Kotwali, Akola for an offence punishable under Sections 143, 147, 148, 149, 307, 302 read with Section 34 of the Indian penal Code and under Section 135 of the Bombay Police Act.
4. The applicant had filed an application for discharge in Sessions Trial No.159/2007 in which Crime No. 118/2007 has culminated. The application was rejected. Therefore, the applicant has filed Criminal Application No.153/2010 before this Court. Before this Court, it was

stated that he was in jail since 11.08.2007, though for a short period of about three months he was on bail. This Court (Coram: A. B. Chaudhari, J.) had on 05.05.2010 partly allowed the application thereby directing the trial Court to dispose of the application filed by original accused nos. 4 and 5 for discharge. The trial Court was also directed to fix the case for framing of the charge on 09.06.2010. It was directed by this Court that in case the present applicant remains absent, the trial Court shall secure his presence by issuing non bailable warrant. The trial Court was also directed to complete the trial within four months from the date of receipt of the order.

5. While disposing of the application, case of the present applicant for temporary bail was considered sympathetically in view of the ailment of his mother and the present applicant was released on bail on he executing PR Bond in the sum of Rs.20,000/- with one solvent surety in the like amount. While granting bail, this Court, in the order dated 05.05.2010, has observed thus:

“The order granting bail shall be restricted only till framing of charge and thereafter the applicant is directed to surrender to his bail before the trial Court.”

6. Mr. Tekade, learned counsel for the applicant submits that till today, the charge is not framed by the trial Court.

7. This is really astonishing. Even after specific directions given by this Court, the charge is not framed. It

appears that the applicant and co-accused are trying their level best to protract the trial. Through, attempts were made by the accused persons to protract the litigation, it was the duty of the Court below to issue non bailable warrant for securing their presence. It was revealed during the course of hearing that one of the co-accused has filed revision before this Court and the stay was sought. However, the said revision was dismissed. It appears that the applicant and his accomplices, who are co-accused, anyhow want to linger the trial. Therefore, in my view, this is not a case wherein this Court should exercise its discretion.

8. In that view of the matter, the application is therefore rejected. The applicant is directed to surrender to his bail bonds before the trial Court on 28.09.2018, failing which the trial Court shall immediately issue non bailable warrant and procure the presence of the applicant.

The application is disposed of.

JUDGE

kahale

Yogesh
Arvind
Kahale

Digitally
signed by
Yogesh
Arvind
Kahale
Date:
2018.09.27
17:35:28
+0530