

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 293 OF 2019
IN
CRIMINAL WRIT PETITION NO. 30 OF 2019

IMRAN KHAN.,

... Applicant

Versus

STATE OF GOA, THR. PUBLIC
PROSECUTOR AND ANR.,

... Respondents

Shri Nitin Sardesai, Senior Advocate with Shri Kaif Noorani,
Advocate for the Applicant.

Shri S. R. Rivankar, Public Prosecutor on behalf of the State.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 17th December, 2019

P.C.:

Heard Shri Nitin Sardesai, learned Senior Advocate
alongwith Shri Kaif Noorani, learned Advocate for the
applicant and Shri S. R. Rivankar, learned Public Prosecutor on
behalf of the State.

2. The applicant takes exception to the order passed by this Court dated 21.11.2019 wherein a reference has been made to the discretionary powers under Article 227 of the Constitution of India instead of Article 226 and 227 of the Constitution of India in the matter of its plenary powers and the inherent power of this Court under section 482 of Cr.P.C.

3. Shri Nitin Sardessai, learned Senior Counsel invited my attention to the order of this Court dated 20.04.2018 pursuant to which a learned Single Judge of this Court was pleased to hold that the applicant was at liberty to file an application under Section 451/457 Cr.P.C before the learned Sessions Judge after filing of the charge sheet within three months from the date of the order for release of the amount and pursuant thereto, the learned Sessions Judge held by its order dated 14.12.2018 that an amount of ₹21.5 crores be released in favour of the applicant by ordering its defreezing from its current account maintained by the applicant in the Bank of India, Margao branch on the condition that the applicant furnishes an indemnity bond and an undertaking to bring back the amount if so ordered by the Court.

4. This order was the subject matter of challenge in the Criminal Writ Petition nos.30/2019 and 31/2019 which came to be disposed off pursuant to the order dated 21.11.2019 wherein another learned Single Judge of this Court observed

at para 32 that the applicant was at liberty to approach the Sessions Court to defreeze the amount which according to him was sanctioned to meet the expenses and once again disposed off the writ petitions with liberty to the applicant to approach the learned Sessions Judge for appropriate relief.

5. Looking to the order which has been passed and in the interregnum it is observed that the crux of the order dated 20.04.2018 has been lost on this Court while disposing off both the writ petitions and holding that the applicant was entitled to defreeze the amount to the extent sanctioned to meet the expenses. In view thereof the order passed by this Court dated 21.11.2019 is reviewed to the extent that the respondents shall be bound to defreeze a reasonable amount from that of ₹69 crores frozen by them. The applicant shall be at liberty to move the learned Sessions Court for the release of the frozen amount without being influenced by the observation made in the order dated 21.11.2019 in Criminal Writ Petition nos. 30/2019 and 31/2019. The learned Sessions Judge shall dispose off the application for release within a month of its filing.

NUTAN D. SARDESSAI, J.

MF/-