

Anand

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

BAIL APPLICATION NO. 503 OF 2019

Arunkumar Dinanath Pandey .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. P. G. Pandey, Advocate, for the Applicant
Mr. S. V. Gavand, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 19.06.2019

P.C.

. Heard learned counsel for the parties.

2. This is the second Bail Application. The first Bail Application of the Applicant was rejected on merits by this Court (Coram : Revati Mohite Dere, J.) vide Order dated 07.09.2017 passed in B. A. No. 1525 of 2017.

3. Learned counsel for the Applicant submits that the change of circumstance is delay in the conduct of trial. He submitted that despite the trial having been expedited vide Order

dated 07.09.2017, the trial has not commenced. He submitted that even the statement recorded under Section 164 of Cr. P. C. has not been provided to the Applicant. Considering merit in the grievance made by the learned counsel for the Applicant, i. e. that the Applicant was not being produced before the Court on time, as he was being brought from Thane Central Jail, this Court vide Order dated 20.03.2019 directed the authorities to transfer the Applicant from Thane Jail to Arthur Road Jail, so that, the Applicant could be produced before the trial Court, on time and on the dates given by the trial Court.

4. The Applicant was transferred from Thane Jail to Arthur Road Jail, as the learned APP had expressed difficulties in producing the Applicant on time, before the concerned Court. Learned APP has given an assurance on behalf of the concerned authorities and has also filed an Affidavit of the Superintendent of Jail stating that the Applicant will be produced on the dates given by the trial Court. After perusing the roznama i. e. out of 43 dates given by the trial Court, the Applicant was not produced on 31 dates, the order of transfer of the Applicant from Thane Jail to

Arthur Road Jail was passed.

5. After the Applicant was transferred from Thane Jail to Arthur Road Jail, it appears that the Applicant was produced on 23.05.2019, however, the Court was vacant. Thereafter, on 04.06.2019, the Applicant was produced at 12.00 noon, on which day, the examination-in-chief of the Complainant was recorded and his statement under Section 164 of Cr. P. C. was opened. Learned APP submits that a copy of the 164 statement was given to the Applicant. Learned counsel for the Applicant refutes the said statement. He states that he has not received a copy of the 164 statement. If the said submission is correct, the learned Sessions Judge to forthwith supply a copy of the said 164 statement to the learned counsel for the Applicant. It appears that thereafter, the Applicant was again produced on 04.06.2019, when the witness was present, however, the Applicant's Advocate due to personal difficulty could not remain present.

6. Be that as it may, the authorities have given an assurance to this Court that the Applicant will be produced on the

dates and time given by the trial Court. The trial has commenced, inasmuch, as examination-in-chief of one of the witnesses is over. The prosecution intends to examine about 5-6 witnesses. The first Bail Application of the Applicant was rejected on merits by a detailed order. There is no change of circumstance warranting interference in the said order.

7. Considering the aforesaid, the Application stands rejected, however, the trial of the Applicant is expedited. The learned Sessions Judge to conclude the case as expeditiously as possible and in any event within six months from the date of receipt of this order. All parties to co-operate in the conduct of the trial.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)