

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 205 OF 2018**

Balaram Govind Gaikwad	...Applicant
Versus	
The State of Maharashtra & Ors.	...Respondents

Ms. Vidya Palmore I/b Mr. S. K. Atique Ur Rehman for the Applicant

Mr. S. V. Gavand, A.P.P for the Respondent No.1-State

Mr. Umar Kazi for the Respondent Nos. 2, 3 and 5 to 17

Mr. Kabul Singh Labhana for the Respondent No. 4

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY. 20th MARCH 2019

P.C. :

1 Learned A.P.P, on instructions, states that Ms. Rachna Bhoir, a senior Additional Public Prosecutor (APP) having sufficient experience will be conducting the trial. On the last date, learned counsel for the applicant (original complainant) had also made a statement on the instructions of the applicant, that the applicant does not intend to make any representation to the Government for appointment of a special PP in the case and that he had no objection if

a competent learned APP is appointed in the said case and if the case is conducted by the APP.

2 Today, learned counsel for the applicant submits that in view of the appointment of Ms. Rachna Bhoir, APP, she does not press this application, at this stage and as such, seeks leave to withdraw the said application. She, however, states that the trial before the trial Court be expedited considering the fact, that the case is of the year 2009 and considering the age and health of the applicant.

3 Learned counsel for the respondents on the last date, had sought time to file an affidavit stating that they will not seek any adjournment and will cooperate in the conduct of the trial. Today 16 respondent-accused have tendered undertakings on affidavit. The said 16 separate undertakings have been taken on record and marked as 'X-colly'. All the 16 respondents-accused have undertaken to cooperate in the conduct of the trial and have stated that they will not seek any adjournments. Para 3 of the said undertakings is relevant.

4 In view of the statement made by the learned counsel for the applicant that she does not want to press the aforesaid application, at this stage since the trial is being expedited, the application is disposed of as not pressed. However, the trial Court is requested to decide the case as expeditiously as possible and preferably on day-to-day basis. Since the case is of the year 2009, the learned trial Judge shall conclude the case expeditiously and in any event, within 9 months from today.

5 All parties to cooperate in the conduct of the trial. The respondents-accused to place the xerox copies of the affidavit of undertakings tendered in this Court today, before the trial Court. It is also open for the trial Court to take appropriate steps as against the respondents-accused, in the event, the respondents-accused fail to cooperate in the conduct of the trial, including cancelling the bail of the respondents-accused.

6 At this stage, learned counsel for the applicant states that the applicant is not in good health and having regard to his age and

health, the learned trial Judge be directed to appoint a Court Commissioner for his examination. It is always open for the prosecution/learned A.P.P to file an appropriate application before the trial Court, if the occasion so arises. If such an application is filed, the learned Judge shall decide the same in accordance with law.

7 Application is disposed of accordingly.

8 Registry to forthwith communicate the said order by fax to the learned Sessions Judge, Thane, seized of Sessions Case No. 196 of 2009. Parties are also at liberty to place the said order before the learned Sessions Judge.

9 Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.