

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

CRIMINAL APPLICATION No.717 OF 2018

Ramesh Govraiah Gollala

... Applicant

Vs.

The State of Maharashtra

... Respondent

Ms.Susan Abraham for the Applicant

Mr.Vaibhav Bagade, Spl. Public Prosecutor with Ms.Veera Shinde,
APP, for the respondent/State

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JANUARY 8, 2019**

P.C.:

1. This Criminal Application is made under section 482 r/w Sections 439 and 167(2) of the Code of Criminal Procedure. In this case, the order granting extension of time for filing charge sheet passed on 9th April, 2018 by the learned Special Judge, Mumbai in M.C.O.C.A. Special Case No.500 of 2018 which was confirmed by the order dated 24th April, 2018 passed below Exhibits 18 and 20 by the learned Additional Sessions Judge, City Civil and Sessions Court, Greater Bombay thereby rejecting the Application below Exhibit 18 for setting aside the order of granting extension of time for filing charge sheet and also Application

Exhibit 20 for statutory bail.

2. Ms.Abraham, the learned counsel for the applicant, submitted that the service of notice on the accused in the Application seeking extension of time for filing charge sheet under Unlawful Activities (Prevention) Act, 1967 (U.A.P. Act) is mandatory. He submitted that as per the police report, the Superintendent of jail has made endorsement that on 5th April, 2018, the applicants/accused refused to accept service, then on the next dates, i.e., 6th or 7th April, the prosecution should have moved the Court informing that the accused were not accepting the service. She has submitted that at the time of remand, the counsel of the accused were present, however, before that, the Application seeking extension to file charge sheet was decided and period was extended upto 28th May, 2018. She has submitted that the valuable right of the accused to get audience is defeated due to non-service of notice and the order was passed behind the back of the advocates representing the accused persons. The learned counsel submitted that on the next date, i.e., 10th April, 2018, the advocates of the applicants/accused have moved an application for setting aside the order of extension of time,

however, the said Application was rejected after hearing on 24th April, 2018. She further submitted that the order passed by the learned Judge of extension of time is non-speaking and without reasons, therefore, both the orders are to be set aside. Hence, the present Criminal Application.

3. The learned Special Public Prosecutor submitted that the Application was made by the prosecutor earlier on 4th April, 2018 for extension of time for filing the charge sheet. After receiving the said Application, the Court has issued notice to the applicant/accused in Arthur Road jail. On 5th April, 2018 when the Superintendent of Arthur Road tried to serve Court notice on the applicant/accused, he refused to accept and accordingly, the said noting was placed before the Court. The Court has considered that it is deemed to be accepted. The learned Spl. P.P. further submitted that there is a compliance under Section 43D of U.A.P. Act. The Application seeking extension to file the chargesheet was preferred by the prosecutor stating reasons for the same. He further submitted that no grievance is made by the applicant/accused that he was not properly served. He supported the order dated 24th April, 2018 passed by the learned Additional

Sessions Judge rejecting the Application Exhibit 18 for setting aside the order of granting extension of time for filing charge sheet and also rejected Exhibit 20, i.e., Application for statutory bail. He further submitted that the charge sheet is filed on 13th May, 2018, i.e., within stipulated period.

4. This Court on 17th December, 2018, had allowed connected matters i.e., Criminal Application Nos.715 of 2018 and 716 of 2018 of co-accused Satyanarayan Rajaiah Karrella & Ors. And Krishna Lingayya Ghoshaka. Therefore, for the reasons stated in the said applications i.e., Criminal application Nos.715 of 2018 and 716 of 2018, this application is also allowed and disposed of accordingly.

5. The request of the Special Public Prosecutor for stay of this order as the State wants to challenge this order before the Supreme Court. In view of the ratio laid down by the Hon'ble Supreme Court in the case of **Hitendra Vishnu Thakur & Ors.** reported in **(1994) 4 SCC 602** and in the case of **Sanjay Dutt vs. State, through CBI.**, reported in **(1994) 5 SCC 410**, I am not inclined to stay this order and the stay is accordingly refused.

(MRIDULA BHATKAR, J.)