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

**CRIMINAL APPLICATION NO.2108 OF 2018
IN
CRIMINAL APPEAL NO. 860 OF 2018**

Samir Sharad Kulkarni

..Applicant.

Vs

The State of Maharashtra

Through National Investigation Agency

..Respondents

Mr. Samir Sharad Kulkarni the Applicant present in person.

Mr. Sandesh Patil a/w Prithviraj S. Gole for NIA.

Ms. P.P. Shinde, APP for the State of Maharashtra.

**CORAM : A.S. OKA &
A.S.GADKARI, J.J.**

DATE : 22nd January 2019.

P.C.:

Heard the applicant appearing in person.

2] This application is filed in a disposed of Criminal Appeal and therefore an objection is raised by the learned counsel for the prosecution (NIA) that this application is not maintainable.

3] Our attention is invited to the Order dated 22nd October 2018 passed by a Division Bench of this Court in Criminal Application No.1587 of 2018. Paragraph-4 of the said Order reads thus:-

“Since the offence is of the year 2008 and the said case is pending on the file of the learned Trial Court/Special N.I.A. Court for pretty long time, we hereby request the Special N.I.A. Judge to make an endeavour to conduct the Trial of the said case preferably on day to day basis and to expedite the same.”

(underline supplied)

4] The Applicant appearing in person makes a grievance that the Advocates appearing for some of the accused are seeking adjournments on the grounds which are not genuine and therefore, the Order of this Court is not being complied with. He also invited our attention to the Section 19 of the National Investigation Agency Act, 2008 (for short “the said Act of 2008”) and submits that intention of the legislature is to ensure that the trial for the offences under the said Act of 2008 shall be conducted on day to day basis. He submits that the trial is being delayed on account of applications for adjournments made by accused persons. He invited our attention to the Order dated 24th December 2018 by which postponement was granted. He, therefore, submits that directions be given to the Special N.I.A. Court to abide by the Order of this Court as well as the Order of the Apex Court dated 15th April 2015.

5] We have considered the submissions of the appellant appearing in person in disposed of Criminal Appeal. It is an admitted position that the directions issued by a Division Bench of this Court on 22nd October 2018 quoted above continue to remain in force.

As stated earlier, this Court by Order dated 22nd October 2018 directed disposal of trial preferably on day to day basis and to expedite the same.

6] When there is an Order of a Division Bench of this Court as aforesaid, it is the duty of the Members of the Bar to make all possible efforts to ensure that the trial goes on day-to-day basis. Thus, it follows that no Member of Bar including the Public Prosecutor cannot seek any unwarranted adjournments. Hence, if any application for adjournment is made by any Member of Bar or by the Public Prosecutor on a ground which is not at all bonafide or reasonable, considering the Order of the Apex Court and the Order of this Court, the learned Special Judge will be well within his powers to refuse such adjournments. The learned Special Judge is bound to implement the directions contained in paragraph No.4 of the Order dated 22nd October 2018 of this Court. If he finds that a particular party or Advocate is not co-operating with him for implementation of

directions issued by this Court, he shall submit a report to the Registrar (Judicial-I) of this Court in a sealed envelope to that effect. As soon as the Registrar (Judicial-I) of this Court receives such a report, he shall immediately place it before the appropriate Division Bench for passing necessary directions.

7] Subject what is observed hereinabove, the Application is disposed of.

(A.S.GADKARI, J.)

(A.S.OKA, J.)