

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL REVISION APPLICATION (REVN) NO.40 OF 2019

(Vishambhar Laxman Karmakar Vs. State of Maharashtra thr. PSO PS Kalmana, Dist.
Nagpur)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri M.N. Ali, Advocate for Applicant.
Shri N.R. Rode, APP for Respondent/State.

CORAM: M.G. GIRATKAR, J.

DATE: 28th FEBRUARY, 2019.

Heard Advocate Shri M.N. Ali for the applicant.

He has submitted that applicant is in jail from 26.06.2018. Charge-sheet is filed within 180 days. Charge-sheet came to be filed on 24.12.2018 after 180 days, and therefore, applicant as of right is entitled for bail under section 137 of Cr.P.C. Learned counsel has pointed the decisions of Single Bench of this Court. In both the cited decisions, it is stated that as soon as 90 or 180 days complete the accused has absolute right to get bail under section 167 of Cr.P.C.

Advocate Shri Ali fairly submits that 180 days comes to an end on Sunday i.e. on 23.12.2018. On Monday the charge-sheet came to be filed. Section 468 of Cr.P.C. prescribed the period of limitation for taking cognizance by the Court in respect of the offences. Section 471 of Cr.P.C. exclude holiday in certain cases.

Section 471 of Cr.P.C. reads as under:

471. Exclusion of date on which Court is closed.— *Where the period of limitation expires on a day when the Court is closed, the Court may take cognizance on the day on which the Court reopens.*

Explanation.— *A Court shall be deemed to be closed on any day within the meaning of this section, if, during its normal working hours, it remains closed on that day.*

As per section 471 of Cr.P.C. where the period of limitation expires on a day when the Court is closed, the Court may take cognizance on the day on which the Court reopens. Admittedly, 180 days comes to an end on Sunday. The Court has accepted the charge-sheet on Monday as per section 471 of Cr.P.C. There is no illegality in the order passed by the trial Court rejecting the application of the applicant. While deciding the revision the Court has to see perversity or illegality. In view of section 471 of Cr.P.C. no illegality or perversity is found in the impugned order.

Hence, revision is dismissed.

JUDGE