

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

**CRIMINAL BAIL APPLICATION NO. 151 OF 2019
WITH
CRIMINAL BAIL APPLICATION (ST) NO. 1872 OF 2020**

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N.
Chavan
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Shraddha Satish Mangale .. Applicant
Vs.
The State of Maharashtra ..Respondent

**WITH
INTERIM APPLICATION (ST) NO. 3804 OF 2020**

Radheshyam Laxmanrao Mopalwar ... Intervenor

In the matter between:
Shraddha Satish Mangale .. Applicant
Vs.
The State of Maharashtra ..Respondent

Mr. M. B. Shirsat, Advocate for the Applicant.
Mr. H.J. Dedhia, APP for the Respondent/State.
Mr. Rizwan Merchant, Counsel a/w Ms. Sneha Sanap for the
intervenor.

**CORAM : C.V. BHADANG, J.
DATE : 23rd NOVEMBER, 2020
(THROUGH VIDEO CONFERENCING)**

P.C.

1. This application is placed before this bench, as the regular Bench has expressed inability to take up the application.

2. Bail Application No. 151 of 2019 is not on board. The same is taken on board.

3 Heard for some time. Mr. Shirsat, the learned Counsel for the applicant on instructions seeks leave to withdraw the application, as the applicant intends to approach the learned Special Judge for bail. In the submission of the learned Counsel for the applicant, there is a change in circumstances, at least on three counts; firstly according to the learned Counsel, the learned Special Judge had refused to release the applicant on bail in the year 2018 *inter alia* on the ground that the applicant had not offered explanation for the alleged international calls. Mr. Shirsat, the learned Counsel submits that the applicant has now come up with the necessary explanation in the present application, which he will place before the learned Special Judge. Secondly, it is submitted that the trial has started and two years have elapsed after the rejection of the application in the year 2018. Thirdly, it is further submitted that because of the pandemic situation, it is unlikely that the trial will conclude within near future. On all these grounds, the applicant intends to apply for bail afresh before the learned Special Judge.

4. Mr. Dedhia, the learned APP has left the matter to the discretion of the Court. It is submitted that this court may pass appropriate order in the face of the request for withdrawal.

5. Mr. Merchant, the learned Counsel for the complainant/intervenor points out that the aspect about the explanation to the alleged international calls has been considered by the learned Special Judge, while refusing to discharge the applicant. It is submitted that thus, there is no material change in circumstance for the applicant to approach the learned Special Judge, for bail afresh.

6. In my considered view, once the applicant is desirous of withdrawing the application, the same cannot be refused. It is trite that the applicant cannot be forced to pursue this application for bail before this Court. However, the question whether there is any change or material change in circumstance entitling the applicant to apply for bail afresh, is kept open to be gone into by the learned Special Judge, in the event, applicant files a fresh application for bail.

7. With this, Criminal Bail Application No. 151 of 2019 is disposed of as withdrawn.

8. In the event, the applicant files an application for bail afresh before the learned Special Judge, the same shall be decided on its own merits and in accordance with law, without being influenced by the withdrawal of this application, in as much as this application is not heard on merits.

9. All Criminal Applications including intervention applications, if any, are also disposed of as infructuous.

C.V. BHADANG, J.