

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.766 OF 2020

SAURABH GUPTA

)...PETITIONER

V/s.

THE STATE OF MAHARASHTRA AND ANR.)...RESPONDENTS

Ms.Snehal Chothani i/b.Mr.A.M.Moorthy, Advocate for the
Petitioner.

Mr.R.M.Pethe, APP for the Respondent – State.

Mr.Pankaj D. Jain a/w. Ms.Tejashree Kamble and Ms.Arti Mahajan
i/b. P.D.Jain & Co., Advocate for Respondent No.2.

CORAM : A. M. BADAR, J.

DATE : 13th FEBRUARY 2020

ORAL JUDGMENT :

1 Heard. Rule. Rule made returnable forthwith. Heard
finally by consent of parties.

2 By this petition, the petitioner/convicted accused is challenging three orders dated 23rd January 2020 passed by the learned Additional Sessions Judge below applications at Exhibits 15, 16 and 17 moved by the petitioner/convicted accused before the Appellate Court.

3 Heard the learned counsel appearing for the petitioner/convicted accused. She drew my attention to the application for depositing the amount of Demand Draft and submitted that after depositing amount of Rs.15 lakh before the Appellate Court, there was no need to reject the applications moved by the petitioner/convicted accused before the Appellate Court on hyper-technical ground.

4 The learned counsel appearing for contesting respondent/original complainant submitted that there was delay in complying the order of deposit of compensation. Moreover, order regarding deposit of compensation is not yet complied by

the petitioner/convicted accused, and therefore, this court should enhance the amount of compensation.

5 I have considered the submissions so advanced and also perused the material placed before me. In this case, the complainant is not before the court for enhancement of the amount of compensation. The petition is by the convicted accused. It is seen from the record that the petitioner/convicted accused was directed to deposit an amount of Rs.15 lakh in the Appellate Court within a period of four weeks vide order dated 26th April 2019 passed by the learned Additional Sessions Judge, Mumbai, for staying the conviction. Similarly, vide order of the same date, the petitioner/convicted accused was released on bail on executing P.R.Bond of Rs.15,000/- on furnishing local sureties in like amount.

6 It is seen that though the amount so directed was not deposited within the prescribed time but subsequently, the Demand Draft of Rs.15 lakh came to be deposited with the

Registrar of the City Sessions Court, Greater Bombay, vide application dated 21st January 2020. The learned Appellate Court has taken note of this fact in one of the impugned orders but further observed that non-bailable warrant issued against the petitioner/convicted accused is still in force and the petitioner/convicted accused is not present before the court and has not furnished the surety. With this, the application for stay to the non-bailable warrant came to be rejected.

7 Similarly, application for recalling the order of cancellation of bail also came to be rejected by observing that the amount of compensation as directed is deposited, but still non-bailable warrant is in force and the petitioner/convicted accused is not present before the court for furnishing surety. Similarly, for the same reason, the application for suspension of sentence (though it is titled as suspension of conviction) came to be rejected.

8 After deposit of the requisite amount, as directed by the learned Appellate Court, there was no justifying reason for passing the impugned orders. The impugned orders are, therefore, quashed and set aside.

9 The petitioner/convicted accused is granted two weeks time to comply the bail order by furnishing P.R.Bond as well as surety, as directed by the learned Appellate Court.

10 The petition is, accordingly, disposed off. Rule is made absolute in above terms.

(A. M. BADAR, J.)

Arti V.
Khatate

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