

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 790 OF 2020
IN
SESSIONS CASE NO. 2002 OF 2019
IN
C.R. NO. 323 OF 2019

Rahul Vinodkumar Borad ...Applicant

V/s.

State of MaharashtraRespondent

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Mr. Niteen Pradhan a/w. Mr. Ashok Mishra, Mr.
Yogesh Devnani i/by. M/s. Solicis Lex,

Advocate for the applicant.

Mr. S.R. Agarkar, APP for State.

CORAM : SANDEEP K. SHINDE, J.

Wednesday, 27.1.2021.

P.C. :

1. It is second bail application in connection with C.R. No. 323/2019, registered under Sections 489-B, 489-C of the Indian Penal Code.

2. First application was heard by this Court on 11th November, 2019. It was allowed to be withdrawn since Court was not inclined to grant bail, as such dismissed.

3. That successive bail application can only be entertained when there is change in circumstance; and not otherwise.

4. Mr. Pradhan, learned Senior Counsel for the applicant, in support of the second application, would submit that, when the first application was heard, certain points and the evidence was not brought to the notice of the Court.

5. At the relevant time, the instructing advocate was one, Mr. Shailendra Singh and Mr. Kunal. That to say, today the arguing Counsel and the instructing advocates, are different.

5. To ascertain whether the points sought to be canvassed today was argued before this Court or

not and when enquired with instructing Advocate, Mr. Ashok Mishra, submitted that, applicant's relative was present in the Court when the first application was heard and on his instructions, the aforesaid submissions were made.

6. It may be stated that, the first application was allowed to be withdrawn on the request of the Counsel for the applicant, when the Court was not inclined to grant his application.

7. Thus, no change in 'circumstance' has been brought to my notice, except that, the forensic report in respect of the counterfeit notes, was not before this Court when application was heard on 11th November, 2019.

8. In several bail matters, applicants withdraw the applications, apprehending adverse order or observations may directly or indirectly affect the trial. Thus, if applicant's contention is accepted that, certain points were not argued when first application was heard and therefore

second application is maintainable and required to be heard, it will open flood-gates, in as much as, accused whose applications were dismissed as withdrawn, would re-apply for bail without there being change in circumstance and that may amount to 'Review', which is not permissible.

9. In the given set of facts, in my view, second application cannot be entertained. However, if the applicant is of the view that, forensic report would amount to 'change in circumstances', he is granted liberty to move the learned trial Court for appropriate relief.

10. In consideration of the facts of the case and for the reasons stated herein, the application is not entertained and rejected.

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(SANDEEP K. SHINDE, J.)