

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1540 OF 2021**

Manoj Namdev Gajakosh	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Prashant G. Pandey, Advocate for the Applicant.
Ms. P.P. Shinde, APP for the Respondent - State.
Mr. V.N. Kore, API, Unit-9, Bandra Crime Branch, Mumbai.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 2nd JULY 2021.

P.C. : (Through Video Conferencing)

1. The learned APP has placed on record the Roznama which shows that the application is filed by the present applicant on 24th June 2021. On 25th May 2021, the hearing of the said application was adjourned due to Covid-19. The prosecution has filed a say. When this aspect was pointed out to Mr. Pandey, he submits that he would withdraw the said application. However, the said application was filed during the pendency of this application. The said application be prosecuted in accordance with law. The learned counsel submits that

the said application was filed by the applicant by email and therefore, he had no knowledge that the said application is filed.

2. The learned counsel submits that the Public Prosecutor in the present case had sought several adjournments till March 2021. However, the prosecution has examined 10 witnesses. The compliance report is filed on 21st April 2021.

3. The learned counsel for the applicant has vehemently pointed out several aspect of the trial in the present case including that the Special Prosecutor had attempted to win over certain accused persons. It was also pointed out that in the absence of a speaking order the Sessions Court was misled to adjourn the matter upon instructions of a Public Prosecutor of this Court. However, all these matters are settled and this Court cannot go into this issue in an application under section 439 of Code of Criminal Procedure, 1973. However, the applicant would be at liberty to approach this Court in the eventuality that his application is rejected. However, pendency of any application either by the accused or by the prosecution shall not be construed as stay to the recording of the evidence and the Sessions Court shall proceed with recording of evidence uninfluenced by any of the

observations made either by this Court or the predecessor Court.

Application is disposed of.

(SMT. SADHANA S. JADHAV, J)