

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Interim Application No. 1283 / 2021
in
Criminal Revision Application No. 614 / 2018

Amit Ramchandra Baddi @
Govinda @ Amit Baddi .. **Applicant**

Versus.

The State of Maharashtra and Ors. .. **Respondents**

Mr. Virendra Ichalkaranjkar a/w Mr. Sanjeev
Punalekar, Advocate for the Applicant.
Smt. Sharmila Kaushik, APP for State.

CORAM : SANDEEP K. SHINDE J.

DATE : 30th SEPTEMBER, 2021.

(Through Video Conference)

P.C. : -

Heard.

1. Taking exception to the order dated 5th January, 2021, in application below Exhibit 106 and 149 in

Sessions Case No. 151/2019 passed by the Additional Sessions Judge, Greater Mumbai, the Applicant - Accused No.11 in the said Sessions case has preferred this Revision Application.

2. Facts essential for the decision of this application are that, the Applicant is accused in the following cases;

(i) Crime No. 142/2015 at Dharwad, Karnataka.

(ii) Crime No.221/2017 at Bangalore, Karnataka.

(iii) Crime No. ATS/11/2018; which culminated in Sessions Case No.151/2019, pending in the Court of Sessions, Greater Mumbai.

3. Applicant was arrested in Crime No.221/2017, in July, 2018 at Bangalore. Whereafter his custody was transferred in Crime No. ATS/11/2018 at Mumbai and was shown arrested on 6th October, 2018. Whereafter he was again transferred in the judicial custody in the case, which arose out of Crime No.221/2017 at

Bangalore. It appears at the instance of State of Maharashtra an application was moved in Crime No. ATS/11/2018, seeking transfer of applicant's custody from Bangalore in ATS/11/2018 at Mumbai. The application was rejected by the trial Court. Whereafter the State of Maharashtra moved Criminal Revision Application No. 614/2018, wherein this Court vide order dated 14th January, 2019 directed the transfer of Applicant's custody in Crime No.ATS/11/2018.

4. Pursuant to the order passed by this Court, Applicant's custody was transferred in Crime No.ATS/11/2018. As on today, he is in the judicial custody in Sessions Case No. 151/2019, which arose out of Crime No. ATS/11/2018.

5. On 2nd December, 2019, Applicant moved an application, seeking transfer of his custody in a case arising out of Crime No.142/2015 at Dharwad.

It is Applicants' case that his detention in Mumbai would defeat his right of being represented conslut and instruct an Advocate of his choice to defend him in the case in Dharwad.

6. Applicant's request was rejected by the learned Additional Sessions Judge on the ground that for want of an order passed under Section 267 of the Cr.P.C. by the Court at Dharwad, his request cannot be acceded to.

7. Feeling aggrieved by this order, the Applicant has filed this Revision.

8. Heard. Learned Counsel for the Applicant and learned Prosecutor for the State.

9. On plain reading of provision of Section 267, it may be stated that under this provision, the Court is empowered to direct the accused to be produced

before the Court, if the accused is facing trial in more than one case. In the case in hand, the Sessions Court at Dharwad has not issued/ passed order in exercise of power under Section 267, directing transfer of Applicant's custody or his production before the Court of Dharwad. In consideration of these facts, in my view, the order passed by the learned Sessions Judge declining to transfer his custody to the Court in Dharwad in a case arising out of the Crime No.142/2015 cannot be faulted with. Therefore, the revision application is dismissed.

10. It is clarified that dismissal of this Revision Application will not preclude the Applicant from pursuing his right to consult and instruct an Advocate of his choice, who is defending him in a case at Dharwad a right; which is referable to the right guaranteed under Article 22(1) of the Constitution of India.

11. For these reasons and with the clarification,
the Revision Application is disposed of.

(SANDEEP K. SHINDE, J.)

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