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

***CRIMINAL APPLICATION NO.651 OF 2019  
IN  
CRIMINAL APPLICATION NO.244 OF 2019  
IN  
CRIMINAL BAIL APPLICATION NO.2216 OF 2017***

|                          |               |
|--------------------------|---------------|
| Dr. Avinash Bhosale      | ...Applicant  |
| Versus                   |               |
| The State of Maharashtra | ...Respondent |

***WITH  
CRIMINAL INTERIM APPLICATION NO.585 OF 2019  
(FOR INTERVENTION)  
IN  
CRIMINAL APPLICATION NO.651 OF 2019  
IN  
CRIMINAL APPLICATION NO.244 OF 2019  
IN  
CRIMINAL BAIL APPLICATION NO.2216 OF 2017***

|                       |               |
|-----------------------|---------------|
| Pratap Vasantrao More | ...Intervener |
|-----------------------|---------------|

**IN THE MATTER BETWEEN:-**

|                          |               |
|--------------------------|---------------|
| Avinash B. Bhosale       | ...Applicant  |
| Versus                   |               |
| The State of Maharashtra | ...Respondent |

Mr. Pritesh Burad a/w Ms. Amruta Patil i/b Mr. Pritesh A. Burad, for the Applicant.

Mr. P. H. Gaikwad-Patil, A.P.P for the Respondent – State.

Mr. Priyal G. Sarda, for the Intervener.

***CORAM : REVATI MOHITE DERE, J.***

***DATE : 8<sup>th</sup> APRIL, 2021***

**P.C. :**

1. At the outset, learned counsel for the applicant seeks leave to withdraw the aforesaid application seeking extension of time to comply with the orders dated 10<sup>th</sup> August 2018 and 18<sup>th</sup> March 2019, passed by this Court (Coram :A.S.Gadkari, J.) and (Coram: P.N.Deshmukh, J.) respectively. Learned Counsel has placed on record the instructions sent by the applicant by Gmail on 7<sup>th</sup> April 2021 instructing him to withdraw the aforesaid application, without prejudice. The said Gmail sent to the advocate for the applicant, is taken on record.

2. Learned Counsel for the intervener vehemently submits that the applicant has not complied with the orders dated 10<sup>th</sup> August 2018 and 18<sup>th</sup> March 2019, directing the applicant to deposit the monies as stated by him, as per his own affidavit. He submits that the applicant was enlarged on bail not on merits but only having regard to the affidavit given by him sworn before the Jailor of Solapur Central Prison on 6<sup>th</sup> August 2018 that he would deposit certain amounts as mentioned in the said affidavit.

3. There is no impediment in permitting the applicant to withdraw this application, however, it is pertinent to note that vide order dated 10<sup>th</sup> August 2018, the applicant was enlarged on bail not on merits but only having regard to the affidavit filed by the applicant before the Jailor of Solapur Central Prison, to make certain payments, as mentioned in the said affidavit. This Court (Coram:A.S.Gadkari, J.) vide order dated 10<sup>th</sup> August 2018 observed that as per the schedule given by the applicant, the last date for depositing the entire amount in the registry of this Court would be 9<sup>th</sup> August 2019. The undertakings mentioned in the said affidavit were accepted as undertakings given to this Court. It is further noted in para 5 of the said order that in view of the said affidavit dated 6<sup>th</sup> August 2018 filed by the applicant and without going into the merits, the applicant be released on bail. Several conditions were imposed on the applicant whilst enlarging the applicant on bail.

4. It appears that the applicant filed an application seeking clubbing of installment Nos. 1 and 2 together and thereafter to pay further 2 installments, as the applicant was expecting funds to be generated, which were to be paid in the registry of this Court. The said application was taken out before the expiry of the period of 6 months as granted for payment vide order dated 10<sup>th</sup> August 2018. On 18<sup>th</sup> March 2019 in an application filed

by the applicant, this Court (Coram: P. N. Deshmukh, J.), passed the following order:-

**“ORDER**

*i) Applicant shall deposit total amount of installments at Sr Nos. 1 and 2 to the extent of Rs.1,50,00,000/- on or before 21.04.2019 and shall deposit remaining two installments of Rs.1 crores and Rs.84,19,268/- as 3<sup>rd</sup> and 4<sup>th</sup> installments within two months from 21.04.2019 and, thereafter, within two months from the 3<sup>rd</sup> installment.*

*ii) Application stands disposed of as allowed in above terms.”*

5. It is not in dispute that the order granting bail dated 10<sup>th</sup> August 2018 was not on merits but having regard to the affidavit filed by the applicant. Only the amount prior to the applicant's release has been deposited. Post the applicant's release not a single penny has been deposited by the applicant. It appears that the undertaking given by the applicant was not bonafide. Infact, the undertaking given in the affidavit dated 6<sup>th</sup> August 2018 were accepted as undertakings to this Court. The conduct of the applicant as stated aforesaid is necessitated to be placed on record.

6. The application is disposed of as withdrawn with the aforesaid observations.

7. Having regard to what is stated aforesaid, suo-motu notice be issued to the applicant, as to why his bail should not be cancelled for breach of the affidavit. Suo-motu contempt notice also be issued to the applicant, for breach of the undertaking given by the applicant. Both notices are made returnable on 30<sup>th</sup> April, 2021. Notices to be served on the applicant through the concerned police station expeditiously.

8. Suo motu notice to be registered as Suo Motu Application and suo motu contempt notice to be registered as Suo Motu Civil Contempt Petition.

9. In view of the aforesaid, the Intervention Application being Criminal Interim Application No.585 of 2019 does not survive and the same is also disposed of.

***REVATI MOHITE DERE, J.***