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Akshay @ Bokya S/o. Sanjay Jawale ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. M.N.Sandhyanshiv for the Applicant.

Mr. H.J.Dedhia, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 7th OCTOBER, 2021

P.C. :

1. This is the second bail application preferred by the applicant. The applicant's first bail application was rejected by this Court (Coram : Revati Mohite Dere, J) vide order dated 26th July, 2019, on merits. The said order is on page 84 of the application.
2. Learned Counsel for the applicant has sought bail again on merits, as well as, on the ground of delay in commencement of the trial. Mr. Sandhyanshiv, learned Counsel for the applicant submits that despite the trial having been expedited and made time bound, till date, charge has not been framed in the said case.
3. In view of the aforesaid, on 14th September, 2021, a report was called for from the learned District Judge - 1 and Additional Sessions

Judge, Kalyan, as to why the trial had not commenced despite the order dated 26th July, 2019 passed by this Court, in applicant's first bail application, being Criminal Bail Application No. 802 of 2019. Pursuant thereto, the learned Judge sent his report dated 1st October, 2021.

4. A perusal of the report shows that the order dated 26th July, 2019 passed by this Court whilst rejecting the applicant's first bail application was not placed by the applicant before the learned Additional Sessions Judge, seized of the said case. This Court vide the said order, had expedited the trial of the applicant and further observed that if for no fault of the applicant, the trial does not commence within the period of nine months, the applicant is at liberty to file a fresh bail application. It appears from the record that the Advocate representing the applicant, had not brought to the notice of the Trial Court, the said direction passed by this Court, nor the Court received the writ in the bail application of the applicant. The report, further shows that the report of the inward clerk and the clerk who is in-charge of the compliance of writ, both had given a report in writing on 20th September, 2021 stating that on perusal of the Writ Register, the writ in the Criminal Bail Application No. 802 of 2019 was not received by the Trial Court and what was received by the Trial Court is that only the writ in the aforesaid bail application.

5. It is clearly evident that the applicant had not placed the order passed by this Court dated 26th July, 2019 before the Trial Court, for reasons best known to him. He cannot now say, that the trial has not commenced and avail the liberty that was granted to him by the said order. Prima facie, it appears that the applicant suppressed the said order dated 26th July, 2019 from the Trial Court. The applicant has come to this Court with unclean hands and therefore, the question of showing any indulgence to him, does not arise.

6. Accordingly, the bail application is rejected.

7. Since the applicant is in custody since 2018, the trial of the applicant is again expedited. The Learned Judge, to conclude the trial of the applicant, within 12 months from the date of receipt of this order.

8. Registry to forthwith, communicate the said order to the Learned District Judge, who is seized of the Sessions Case No.448 of 2019. Learned Counsel for the applicant to also place today's order on the record of the Trial Court, so as to enable the Court to comply with the same.

REVATI MOHITE DERE, J.