

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1662 OF 2022

Jaimin Dinesh Shah

Petitioner

versus

The State of Maharashtra and another

Respondents

Mr.Dujendrakumar H. Sharma with Ms.Pooja Hingorani, Advocate for petitioner.

Mr.A.M.Saraogi, Advocate for respondent no.1.

PSI Kulkarni, DCB, CID, Unit-2, Mumbai present.

CORAM : PRAKASH D. NAIK, J.

DATE : 5th August 2022

PC :

1. This petition is moved by original complainant for return of property seized during the course of investigation in CR No.140 of 2010 registered with D.B.Marg Police Station (CR No.74 of 2010 of DCB, CID, Unit-2). The petitioner had also moved petition before this Court being Writ Petition No.706 of 2011 which was disposed off by order dated 13th September 2012. The said order indicate that petitioner would pay rent for a locker of suitable size being hired by DCB, CID, Unit-II for the safe custody of the diamonds in the State Bank of India. The petition was disposed off by directing the officer concerned to keep the diamonds in the locker to be hired by DCB, CID at the cost of petitioner till the trial is over. It was directed that considering that trial would take about five years, petitioner may deposit rent of the locker for five years.

2. Apparently the petitioner had moved an application before Trial Court for similar prayer which was rejected on 8th March 2021.

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Pursuant to that the petitioner has approached this Court. Learned counsel for petitioner submitted that in accordance with the previous order passed by this Court, the petitioner has been paying rent towards locker. This Court had expected that trial would be over within five years. However, there is no progress in trial.

3. Learned counsel for respondent submitted that considering the fact that previous order was passed by this Court directing that articles would be kept in the locker till the trial is over, the petitioner ought not to have moved application before Trial Court. By preferring such application the petitioner has committed contempt of order dated 13th September 2012. It is submitted that prayers sought in this petition cannot be granted. The previous order cannot be reviewed. It was passed by consent.

4. Learned APP submitted that prosecution proposes to examine about 22 witnesses. Trial can be expedited. The Trial Court has issued non-bailable warrant against accused no.2 and other accused is exempted from appearing before Court on 4th August 2022.

5. Without adjudicating on merits this case, the trial can be expedited. It is noted that FIR was registered in the year 2010. Previous order indicate that it was expected that trial would be over within a period of five years. However, trial is pending since last ten years.

ORDER

- (i) Writ Petition No.1662 of 2022 is allowed to be withdrawn;
- (ii) Trial is expedited;
- (iii) The Trial Court is requested to make an endeavour to complete

the trial within a period of one year from the date of receipt of this order;

(iv) In the event trial is not over within one year, the petitioner is granted liberty to move a fresh petition for the relief sought in this petition before this Court;

(v) All the issues are kept open;

(vi) Both the parties shall co-operate with Trial Court in concluding the trial expeditiously;

(vii) This order may be communicated to the concerned Court immediately.

(PRAKASH D. NAIK, J.)

MST