

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2152 OF 2022
IN
CRIMINAL WRIT PETITION NO.1382 OF 2018

Rakhee Madan Chaphekar and others
versus
The State of Maharashtra and another

Applicants
Respondents

Mr.Shreeram Shirsat with Mr.Amandeep Singh Sra with Mr.Shekhar Mane i/by Mr.Sanjeev Kadam, Advocate for applicant.
Ms.Rajashree R. Gurav, Advocate for respondent no.2.
Mr.A.R.Patil, APP for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 19th August 2022

PC :

1. Interim Application No.2152 of 2022 is preferred for extension of interim relief granted by this Court in Criminal Writ Petition No.1382 of 2018 vide order dated 31st August 2018 in the light of decision of Hon'ble Supreme Court in the case of **Asian Resurfacing of Road Agency Private Limited and another Vs Central Bureau of Investigation**¹. It is also prayed that consequential proceedings arising out of Criminal Case No.99/SW/2017 pending before Sessions Court in Bail Application No.497 of 2018 may be stayed till final disposal of petition

2. Learned advocate for applicant submitted that during pendency of the proceedings before the Trial Court the applicant had preferred applications before Sessions Court and interim bail was granted to applicant vide order dated 17th March 2018. Thereafter this Court had granted interim relief in the proceedings which are

subject matter of Criminal Writ Petition No.1382 of 2018 vide order dated 28th March 2018. Vide order dated 2nd April 2018 learned Additional Sessions Judge, Greater Bombay passed an order that Bail Application No.497 of 2018 will be decided after the order of High Court in Criminal Writ Petition No.1382 of 2018 as the proceedings are already stayed. Thereafter vide order dated 31st August 2018 this Court had admitted Criminal Writ Petition No.1382 of 2018 and interim relief was granted in terms of prayer clause (b) of the petition.

3. It is submitted by learned advocate for applicant that considering the fact that Criminal Writ Petition No.1382 of 2018 pending in this Court with interim protection and in view of the aforesaid decision of Hon'ble Supreme Court, interim stay granted by this Court may be continued till final disposal of petition and proceedings pending before Sessions Court may be stayed till final disposal of petition.

4. Respondent no.2 has opposed the prayers in Interim Application No.2152 of 2022. Affidavit-in-reply has been filed opposing grant of relief prayed in this application. Learned advocate for respondent no.2 submitted that interim relief may not be continued. The proceedings before the Sessions Court relating to bail may not be kept in abeyance or stayed. The applicant had mislead the Sessions Court as well as Court of Magistrate. There was suppression of facts. Several grounds are urged in the affidavit-in-reply. It is submitted that since proceedings before Trial Court are expedited by this Court, the question of granting stay to the proceedings before Sessions Court does not arise.

5. It is pertinent to note that this Court had initially granted interim relief in Criminal Writ Petition No.1382 of 2018 vide order dated 28th March 2018. Thereafter by order date 19th April 2018 the interim relief was continued till petition is finally decided. Vide order dated 4th May 2018 interim relief was continued till it is expressly vacated by this Court. It was made clear that directions issued to trial Court earlier shall remain extended till final disposal of Criminal Writ Petition No.1382 of 2018. Criminal Writ Petition No.1382 of 2018 thereafter was admitted by this Court by order dated 31st August 2018 by granting interim relief in terms of prayer clause (b) till final disposal of petition. It is also pertinent to note that Sessions Court had observed that petition is pending in the High Court with interim relief and thereafter bail application could be decided. This order was passed on 2nd April 2018. While admitting Criminal Writ Petition No.1382 of 2018 this Court had observed that substantial question of law is made out and with that observation petition was admitted and interim relief was granted.

6. Considering the circumstances, interim relief granted by this Court vide order dated 31st August 2018 shall continue till final disposal of Criminal Writ Petition No.1382 of 2018. Proceedings pending before Court of Sessions, Greater Bombay viz Bail Application No.497 of 2018 are stayed till final disposal of Criminal Writ Petition No.1382 of 2018.

(PRAKASH D. NAIK, J.)

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