

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

INTERIM APPLICATION NO. 3330 OF 2021

IN

BAIL APPLICATION NO. 2261 OF 2017

Hanumant Sadhu Bansode

...Applicant

Versus

The State Of Maharashtra

...Respondent

Mr. Sugandh b. Deshmukh, Advocate for the Applicant.

Mrs. M. M. Deshmukh, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.

DATE : 3rd JANUARY, 2022

PER COURT:

1. The applicant is seeking permission to withdraw cash security amount of Rs.32 Lakhs deposited before the trial Court in accordance with order dated 6th October, 2017 passed by this Court in Bail Application No.2261 of 2017.

2. The applicant was directed to be released on bail in C.R. No.202 of 2017. While adjudicating the bail application, the applicant had submitted that with a view to prove his bonafides and without going into the merits of the matter and without prejudice to the rights and contentions of the applicant to be raised at the time of trial, the applicant is ready and willing to deposit the amount of Rs.32 Lakhs in the Registry of the trial Court.

3. Vide order dated 6th October, 2017, the applicant was permitted to deposit the said amount before the registry of the trial Court. After depositing the said amount, the applicant was directed to be released on bail vide order dated 11th October, 2017.

4. The applicant has now contended that due to passage of time and since the trial is not proceeding, although some witnesses are examined, the amount of Rs.32 Lakhs be returned to him.

5. The applicant preferred application seeking withdrawal of the amount before the trial Court which has been rejected by order dated 30th December, 2020 on the ground that the direction to deposit the amount was issued by the High Court and the trial Court cannot go beyond the order of the High Court and return cash security amount to him.

6. Learned APP submitted that the applicant had volunteered to deposit the amount and on that ground the applicant was granted bail.

7. The trial Court is seized of the matter. It appears, four witnesses are examined but on account of lock-down there is no further progress in the trial. The trial Court has

rejected the application in view of the fact that the amount was deposited pursuant to the order of this Court.

8. Since the amount is deposited in the trial Court and considering the fact that the trial Court would be in a better position to decide the application for withdrawal of the amount, it would be appropriate that the trial Court shall consider the application on merits. Although, the amount was deposited in pursuant to the order of this Court, there would be no impediment for the trial Court to decide the application for withdrawal of the amount in accordance with law and on merits after hearing both the sides.

9. The applicant is permitted to prefer fresh application for withdrawal of the amount before the trial Court and the said application shall be decided by the trial Court on its own merits.

10. Interim Application stands disposed of.

(PRAKASH D. NAIK, J.)