

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

***INTERIM APPLICATION NO.3399 OF 2022
IN
CRIMINAL APPLICATION NO.1100 OF 2016***

Roshan Surendra Uchil	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms. Kranti S. S. Anand a/w Ms. Manisha Lohar for the Applicant

Mr. J. P. Yagnik, A.P.P for the Respondent–State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 14th DECEMBER 2022

P.C. :

1 At the outset, learned counsel for the applicant seeks leave to amend the prayer clause. Leave granted. Amendment to be carried out forthwith.

2 By this interim application, the applicant seeks recall/modification of the order dated 28.09.2016 passed by this Court

(Coram : Revati Mohite Dere, J.) in Criminal Application No. 1100/2016.

3 Learned counsel for the applicant submits that on 28.09.2016, in view of the statement made by the learned A.P.P, on instructions of the Investigating Officer-Mr. Suhas Kamble, that charge-sheet would be filed within six to eight weeks, learned counsel for the applicant had not pressed the said application and had sought leave to withdraw the same, with liberty to file appropriate application in the trial Court, seeking the same reliefs, after filing of the charge-sheet. Accordingly, the application was disposed of as withdrawn with liberty as prayed.

4 Learned counsel for the applicant submits that pursuant to the said order dated 28.09.2016, the petitioner had filed another writ petition i.e. Criminal Writ Petition No. 3541/2016 and that this Court (Coram : A. S. Oka and A. A. Sayed, JJ.) had granted ad-interim relief in favour of the applicant, inasmuch as, the Court had directed that

charge-sheet shall not be filed till the next date i.e. 28.11.2010. Infact, vide order dated 20.02.2017, this Court (Coram : A. S. Oka and Smt. Anuja Prabhudessai, JJ.) issued rule in the same petition and continued the ad-interim relief. Learned A.P.P does not dispute the aforesaid factual position.

5 It is evident from the order dated 28.09.2016 that the applicant withdrew the said application i.e. Criminal Application No. 1100/2016 seeking return of his passport, in view of the statement made by the learned A.P.P that charge-sheet would be filed within six to eight weeks. Vide the said order, liberty was also granted to the applicant to file an appropriate application in the trial Court seeking the same reliefs, after filing of the charge-sheet. It is also not in dispute that subsequently vide order dated 18.10.2016 passed in a petition filed by the applicant i.e. Writ Petition No. 3541/2016, this Court, having heard learned counsel for the applicant, had, by way of ad-interim relief, directed the police not to file charge-sheet and vide order dated 20.02.2017 had granted rule and continued the interim

relief. It is therefore, clearly evident that the charge-sheet could not be filed by the police in view of the order passed by the Division Bench of this Court.

6 Considering the aforesaid, it would be appropriate to recall the order dated 28.09.2016. Accordingly the order is recalled and Criminal Application No. 1100/2016 is restored back to its original file.

7 Registry to list the application before the appropriate Court, as per the Roster.

8 Interim Application No. 3399/2022 is disposed of accordingly.

REVATI MOHITE DERE, J.