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

BAIL APPLICATION NO.2263 OF 2023

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Shivraj Shankar Machkure

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Veerdhawal Deshmukh for the applicant.

Mr. Y.Y. Dabke, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 21, 2023

PC.:

- 1.** This is a second application for bail filed by the applicant. Earlier bail application was withdrawn by the learned advocate for the applicant.
- 2.** Learned advocate for the applicant now contends that there was miscommunication between the applicant and earlier advocate and the matter was not argued on merits. In support of his contention that second bail application is maintainable when earlier application was withdrawn, he relies on the judgment of the Apex Court in **Rani Dudeja v. State of Haryana** reported in (2017) 13 SCC 555.
- 3.** It needs to be noted that the earlier application for bail was argued on merits and it is only when this Court showed

disinclination to grant relief, learned advocate for the applicant withdrew the application.

4. I have considered the judgment of the Apex Court in **Rani Dudeja** (supra). In the facts of the case, earlier application for bail under Section 438 was withdrawn without inviting attention of the Court on merits. The Court held that on change of circumstance another bail application under Section 438 is maintainable.

5. In the facts of the case, no change in circumstance is pointed out nor in the facts of the case it is right to contend that the earlier application was not considered on merits.

6. Apart from the aforesaid factors, learned advocate for the applicant invited my attention to the communication issued by the mother of the victim to the Commissioner. In the said communication, mother of the victim has stated that filing of case against accused was improper and raised doubt about filing of prosecution. On reading of the application, it appears that the mother of the victim is illiterate. From the language of the application, it appears that the language cannot be that of mother of the victim. This is nothing but interference with the investigation at the hands of the accused which provides for additional ground against the accused not to grant relief.

7. The bail application is rejected.

(AMIT BORKAR, J.)