

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1696 OF 2024

Salam @ Wasim Mohd. Bashir Mohd. .. Applicant
Mansuri

Versus

The State of Maharashtra .. Respondent

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Mr.Ravishankar Dwivedi with Anupama R. Dwivedi, Sainath S.
Baji for the applicant.
Smt.Mahalaxmi Ganapathy, APP for the State.

CORAM: BHARATI DANGRE, J.

DATED : 29th APRIL, 2024

P.C:-

1 On 6/11/2023, Bail Application was rejected by recording that the trial is now at the fag end, 47 witnesses having been examined and two more witnesses remain to be examined.

2 Today, all the prosecution witnesses are examined and even statement of the two accused u/s.313 of Cr.P.C is also recorded.

Smt.Ganpathy, however informs that 313 statement of one of the accused i.e. accused no.1, could not be recorded as he is presently housed in Centrail Jail, Shyalawas Dausa, State of Rajasthan, and according to her, despite repeated directions, he is

not been produced on the pretext that the machinery is busy in elections. Definitely, this cannot be a ground for not producing the accused and in such circumstances, let a necessary letter be addressed to the Superintendent of Jail in which the accused no.1 is presently incarcerated with the copy of the same being forwarded to Deputy Inspector General, Rajasthan, directing that on the next date of hearing i.e. 2/5/2024, the accused no.1 shall be produced before the Court, either physically or through Video Conference, for the purpose of recording his statement under Section 313 of Cr.P.C.

In any case, the learned trial Judge shall ensure that on 2/5/2024, the statement of the accused shall be recorded.

The copy of the order shall be forwarded to the concerned through the Sessions Judge, and the learned APP shall ensure that the authenticated copy of this order is made available to the Sessions Judge.

3 The learned counsel for the applicant, state that thereafter, the learned Judge has passed an order that the Forensic Expert would be examined as the prosecution witness.

I fail to understand the aforesaid argument as after 313 statement is being recorded, it is only the witnesses of the defence who can be examined.

In any case, let the learned Judge decide it accordingly.

4 However, since there is no change in circumstances from the date when I had passed the order and since my attention is also invited to an order passed on 8/3/2024, when the Special Judge, City Civil and Sessions Court, is granted extension of six months to dispose off the MCOCA trial, it is appropriate that the trial shall be concluded within the extended period.

Bail Application is dismissed.

(SMT. BHARATI DANGRE, J.)