

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1163 OF 2023

VISHAL
SUBHASH
PAREKAR

Manohar Damodar Tank

...Applicant

vs.

The State of Maharashtra and Others

...Respondents

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SUBHASH
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Date: 2024.01.18
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Mr. Agastya Desai a/w. Mr. Sharvari Joshi, for the Applicant.
Mr. Arati Ranade i/b. Mr. Vijay Hiremath, for Respondent No. 3.
Mr. Y.M. Nakhwa, APP, for the Respondent/State.

CORAM : N. J. JAMADAR, J.

DATE : JANUARY 17, 2024

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. None appeared for respondent No. 2.
3. On 13th September, 2023 when the ad-interim relief was granted, there was appearance for respondent No. 2. This Court had, inter alia, observed as under:-

2] Today I have heard the parties for consideration of ad-interim relief because learned Counsel for the Applicant states that the non-bailable warrant is issued against the Applicant who is the original first Informant. Learned Counsel for the Applicant submitted that the Applicant is the first Informant in C.R. No.362/2020 registered at Bandra police station. Initially, the police filed charge-sheet but the Informant was not satisfied with the

investigation and he preferred an Application under Section 173(8) of Cr.P.C. for further investigation. The learned Magistrate rejected that Application and, therefore, the Applicant preferred the Criminal Application No.70/2023 before this Court. This Court (Coram: Amit Borkar, J.) at the first instance, on 16th March 2023 granted ad-interim relief in the nature of stay on the proceedings before the trial Court. Ultimately, on 15th June 2023 this Court allowed the Applicant to withdraw the said Criminal Application No.70/2023 with liberty to approach the Court of Sessions by filing Criminal Revision Application challenging the order dated 7th January 2023 passed by the Metropolitan Magistrate 12th Court, Bandra, Mumbai below Exhibit 11 in C.C. No.672/PW/2020. It was also directed that the Revision Application be decided in accordance with law after hearing all the parties and it shall be decided as expeditiously as possible.

3] Accordingly, the Applicant preferred Criminal Revision Application No.695/2023 before the Additional Sessions Judge, Greater Bombay. He also preferred an Application for stay to the proceedings before the trial Court. However, the stay Application was rejected. The Revision

Application is still pending before the Additional Sessions Judge, Greater Bombay. In the meantime, the trial Court has issued non-bailable warrant against the first Informant. Learned Counsel for the Applicant submitted that it would be unfair if the Informant himself is arrested in connection with this case, particularly, when this Revision Application is still pending before the Sessions Court. Considering this situation, the Applicant can be protected till the next date by way of ad-interim relief and till then, the trial needs to be stayed.

4. Having regard to the nature of controversy in the application and the fact that the Revision Application is still pending before the Court of Session, the ad-interim relief dated 13th September, 2023 whereby this Court had stayed the execution of NBW against the applicant, and further proceedings in C.C. No. 672/PW/2020 shall continue to operate till the disposal of the Revision Application No. 695 of 2023.

Application disposed.

(N. J. JAMADAR, J.)