



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.60 OF 2024

Gopal Bajirao Ankusharao

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Rahul Arote, Advocate, for the Applicant.

Ms. S. S. Kaushik, APP, for the Respondent-State.

Mr. V. R. Patil, A.P.I., Pandharpur Taluka Police Station present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 4th APRIL 2024

PC:-

1. Heard Mr. Arote, learned Counsel for the Applicant and Ms. Kaushik, learned APP for the Respondent-State.

2. This Application is filed under Section 407 of the Code of Criminal Procedure, 1908 ("CrPC") seeking that MCOC Special Case No.1 of 2020 pending before the learned Special Court at Pandharpur be transferred to either of the Courts at Malshiras, Barshi and Solapur and also seeking setting aside Order dated 16th August 2023 passed by the learned Sessions Judge, Solapur.

3. The position on record as reflected in the Roznama dated 3rd August 2023 shows that a letter was written on 1st April 2023 by the learned Additional Sessions Judge, Pandharpur to the learned Principal District Judge, Solapur for transfer of the matter. The said letter *inter alia* states that the learned Judge has certain threat perception.

4. In the meanwhile on 10th July 2023 Application bearing Criminal Miscellaneous Application No.130 of 2023 has been filed by the Applicant before the learned Sessions Judge, Solapur seeking transfer of the case *inter alia* on the ground that the learned Trial Court itself has sought transfer of the case and therefore the case is being adjourned from time to time and there is delay. The said Application has been rejected by order dated 16th August 2023 passed by the learned Sessions Judge, Solapur.

5. The ground raised in this Criminal Application seeking transfer is that learned Sessions Judge was not inclined to hear the matter and recommended the transfer of the said case to any of the Courts and due to said request of the learned Judge to transfer the said case there is delay in proceeding with the matter.

6. Mr. Arote, learned Counsel appearing for the Applicant submitted that as the learned Judge has himself sought a transfer, he is not in the proper mindset of dealing with the matter.

7. Ms. Kaushik, learned APP opposed the Application. She submitted that only concern of the learned Judge who was dealing with the said MCOC Special Case No.1 of 2020 was that he was having certain threat perception and still security was not provided to the learned Judge and the family members. However, thereafter security has been provided to him and his family members. She further submitted that this Application is filed only for the purpose of delaying the matter.

8. There is substance in the contention raised by the learned APP. In this behalf, it is important to note that the Applicant has inter alia raised the following grounds in this transfer Application:-

*“b) That the Hon’ble Principal Judge ought to have appreciated the fact that **the learned Sessions Judge himself was not inclined to hear the matter, and had recommended transfer of the said case to any other court.***

*e) That the Hon'ble Principal Judge ought to have considered the fact that the Applicant himself was not apprehending any impartial or improper trial, but was **only aggrieved that the applications filed by him were not being heard expeditiously.***

f) That Learned Special Judge had already made up its mind not to take up the present matter and suo motu has written to the Principal District Judge to transfer the matter to any other Court.”

9. The factual position on record clearly shows that although by earlier letter dated 1st April 2023, the learned concerned Judge has requested for transfer of said case, on the ground that there is no security provided to him and his family members and there is threat perception, however, thereafter security has been provided to the learned Judge since July-2023 and thereafter immediately the learned Judge has proceeded to take up the matter. The learned Sessions Judge, Solapur has dismissed the Application filed by the present Applicant seeking transfer by the Order dated 10th August 2023 and thereafter the concerned Judge is proceeding with the matter. Thereafter, the said learned Special Judge (MCOC Act), Pandharpur has passed a detailed Order dated 7th September 2023 rejecting the Discharge Application filed under Section 227 of the CrPC.

10. Therefore it is clear that although the learned Judge is proceeding with the matter and has rejected discharge application, the present Application is filed *inter alia* on the grounds set out hereinabove for delaying the proceedings as the learned Judge has passed order rejecting the discharge Application.

11. Accordingly, the Criminal Application is dismissed.

[MADHAV J. JAMDAR, J.]