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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4298 OF 2024**

Mukteshwar Sharma ... Petitioner
Vs.
The State of Maharashtra and Another ... Respondents

Mr. Mukteshwar Sharma for the Petitioner-in-person.

Mr. A. S. Gawai, APP for the Respondent-State.

CORAM : GAURI GODSE, J.

DATE : 16th OCTOBER 2024

ORDER :

1. The petitioner who appears in person makes a grievance that his substantive appeal challenging the order of maintenance and other reliefs granted by the learned Magistrate is pending before the Sessions Court.

2. He further submits that the application filed by the petitioner for stay of the order impugned in the appeal before the Sessions Court is not decided. He submits that on 29th June 2024 the learned Sessions Judge has directed that his application for stay will be decided

alongwith the appeal. To support his submission he relied upon entry made in the roznama of the appeal which is annexed at page 24 of the petition. The petitioner who appears in person has tendered copy of his application at Exhibit-5. The same is taken on record. The applicant is seeking stay to the order impugned in the appeal filed before the Sessions Court.

3. The petitioner is right in submitting that if his application is not heard independently of the appeal, the application will be rendered infructuous. Petitioner submits that the next date before the Sessions Court is 4th November 2024.

4. In view of the grievance made by the petitioner, I find it appropriate to grant liberty to the petitioner to make an application before the learned Sessions Court for hearing his application at Exhibit-5 independent of the appeal. The application for stay cannot be decided alongwith the appeal as the application for stay during the pendency of the appeal.

5. In view of the aforesaid and the order proposed to be passed in this petition, I do not find it necessary to issue notice to the respondent.

6. Writ Petition is disposed of by passing the following order :

(i) The petitioner is at liberty to file appropriate application before the Sessions Court requesting the court to decide his application at Exhibit-5 independent of the appeal.

(ii) If any such application is filed, the petitioner shall serve copy of the same on respondent no.2.

(ii) If any such application is filed learned Sessions Judge shall decide the application at Exhibit-5 in accordance with law after giving an opportunity of hearing to all the parties.

[GAURI GODSE, J.]