

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 8181/2024

(Arising out of impugned final judgment and order dated 23-06-2023 in BA No. 3706/2022 passed by the High Court of Judicature at Bombay)

YOGESH NARAYAN RAUT

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(IA No.52429/2024-CONDONATION OF DELAY IN FILING and IA No.52426/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 04-03-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s)

Mr. Rishi Malhotra, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Application for exemption from filing a certified copy of the impugned judgment is allowed.

Delay condoned.

Issue notice returnable on 1st April, 2024.The petitioner has undergone incarceration for a period of 10 years. Notwithstanding the directions in the impugned order dated 23rd June, 2023, the learned counsel appearing for the petitioner states that as of today, 16 witnesses, out of 30 witnesses have been examined and therefore, trial is not likely to be completed in near

future.

Prima facie, it appears to us that instead of deciding the bail application on merits, the learned Judge has exercised advisory jurisdiction by giving advice to the prosecutors, defence lawyers and the Trial Courts. By judicial order, the High Court cannot render advice. What was overlooked was the effect of very long incarceration of the petitioner.

Clause (b) of the order reads thus:

"(b) I direct learned trial Judge seized of the case to give periodical report to the Registry of this Court after completion of every three weeks, till the trial is completed."

We are of the view that issuing such a direction amounts to interference with day to day functioning of the Trial Court which cannot be done in the light of the recent Constitution Bench judgment in the case of *High Court Bar Association, Allahabad v. State of U.P. & Ors.* (Criminal Appeal No.3589 of 2023 and connected matters)

Therefore, while we issue notice, we stay clause (b) of the impugned order.

Liberty is granted to serve the standing counsel for the respondent-State.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER