



Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1354 OF 2022

Prashant @ Sonya Ramesh Sabale] Applicant
 Vs.
State of Maharashtra and another] Respondents

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Mr. Mahendra V. Kawchale a/w Mr. Premkumar N. Mishra a/w Mr. Sathish Hargude, for Applicant.

Mr. Ashish Satpute, A.P.P, for Respondent No.1 – State.

Ms. Monali Bhade, P.S.I Lonikand Police Station.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 23rd FEBRUARY, 2024.

P.C.

1. This is an application seeking bail in C.R. No.63 of 2022 registered with Lonikand Police Station, Pune for the offences punishable under sections 354-D, 500, 509 of the Indian Penal Code and Sections 8,12,14 and 15 of the Protection of Children from Sexual Offences Act, 2012 as well as Section 65-B of the Information Technology Act.

2. This application was moved before this Court on 11th April, 2022 as reflects from page 9. Clause 8 of the application reads thus;

“The Applicant states that no application is pending in any Court of law in India, claiming similar relief”.

3. On 21st February, 2024, when the matter was called out, none appeared and, therefore, name of Advocate Mr. Kawchale was flashed. The matter was kept back after recess, however, none appeared.

4. Mr. Premkumar Nilesh Mishra holding for Mr. Mahendra Kawchale mentioned this matter yesterday seeking withdrawal of the application. Request was rejected since learned A.P.P has brought to the notice of this Court that the applicant has suppressed a fact of grant of bail to the applicant by the learned Additional Sessions Judge, Pune vide an order below Exhibit 9 in Special Case No.273 of 2022 on 10th June, 2022.

5. However, in the present application before this Court the applicant did mention about rejection of his first bail application by

another Additional Sessions Judge, Pune in Bail Application No.1326 of 2022 on 11th March, 2022.

6. Subsequent order granting bail dated 10th June, 2022 does not reflect rejection of the first bail application by the Additional Sessions Judge, Pune on 11th March, 2022.

7. Advocate Mr. Mahendra Vishwanath Kavchale has sworn an affidavit today tendering his unconditional apology. The same is taken on record and marked "A" for identification.

8. It appears that during pendency of the Bail Application before this Court, the applicant – accused secured bail from the Additional Sessions Judge, Pune vide an order dated 10th June, 2022 as above.

9. Advocate Mr. Mahendra Vishwanath Kawchale in his affidavit, more particularly in paragraph 3, states as under;

“I state that, the chargesheet came to be filed and case was committed to the Special Court at Pune. The said Hargude again came to me and requested me to file fresh bail application before the Special Court at Pune. I had asked him whether the present bail application was still pending or withdrawn. He told me that he had instructed his new lawyer to withdraw the present bail application. Believing in

his words I filed fresh bail application before the Special Court at Pune”.

10. According to Mr. Kawchale, one of the relatives of the applicant – accused misled him by saying that application pending before this Court has been withdrawn by the new lawyer which appears to be factually incorrect since there is no mention of date as to when a request was made before this Court for withdrawing the application. Statement of Advocate Mr. Mahendra Kawchale that on believing words of relative of the applicant – accused, he filed Bail Application before the Special Court, Pune is unacceptable and unbelievable.

11. At this stage, Advocate Mr. Mahendra Kawchale seeks time till Monday to place on record his *bona fides*, in the sense, he had given no objection to the relative of the applicant – accused to engage another Advocate.

12. Indubitably, this Court has been misled which is a serious thing which also amounts to interference in the judicial process and, therefore, bail granted by the Additional Sessions Judge, Pune on 10th June, 2022 to the applicant in Special Case No.273 of 2022 is

cancelled. The surety is discharged. Bail bond of the applicant – accused as well as surety is forfeited.

13. The applicant is present before Court. He shall immediately surrender before the concerned Court tomorrow i.e on Saturday, 24th February, 2024 at 11.00 a.m. Principal District Judge, Pune shall ensure further steps to be taken and place the applicant – accused in judicial custody till conclusion of the trial.

14. List on Monday, the **26th February, 2024.**

15. Authenticated copy of the order shall be furnished to all the concerned.

[PRITHVIRAJ K. CHAVAN, J.]