

IN THE COURT OF SESSIONS, PUNE.

SESSIONS CASE NO. 398 OF 2016

(CNR-MHPU01-007411-2016)

ORDER BELOW APPLICATION EXH. 1 & APPLICATION EXH.35

[1] Accused Nos. 1 and 2 on bail present. Learned APP Shri. Pathare present. The accused are facing prosecution for the offence punishable u/s. 120-B, 302, 380, 454, 457, 460 r/w. Section 34 of Indian Penal Code.

[2] On 18.12.2019, Sanjay Vasantrao Konde, surety for accused No. 2 has submitted application at Exh. 31 stating that the accused No. 2 now-a-days has become addicted to drugs and also became habitual offender and so he was unable to control him and in future not able to keep him present before this Court and prayed to withdraw the surety bond executed for accused No.2. On the said application, this Court had passed order dated 19.12.2019 discharging the surety Sanjay Vasantrao Konde from the surety bond executed by him for accused No.2 and accused No.2 was granted time till 30.12.2019 to produce the surety in the like amount and the matter was kept on 30.12.2019.

On 30.12.2019, the accused No. 2 has submitted the application at Exh. 33 stating that the work of verification of surety was in progress and prayed for one weeks time and the Incharge Court had granted time till 02.01.2020.

Thereafter, on 02.01.2020, accused No. 2 submitted application at Exh. 34 stating that the work of verification of surety could not be completed and prayed for time. The said request was considered and the time was given till today.

[3] Accused No. 2 has submitted the application at Exh.35 stating that he could not arrange for the surety and he be taken in M.C.R. and sent to jail.

[4] The learned APP has given his say on the application to the effect that appropriate order may be passed.

[5] The provisions of Section - 444 of the Code of Criminal Procedure speaks of discharge of sureties and the consequences of failure of the accused to bring the surety after the discharge of earlier surety. The said provision is reproduced below :

"444. Discharge of sureties -

(1) All or any sureties for the attendance and appearance of a person released on bail may be at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to jail."

As the surety for accused No. 2 named Sanjay Vasantryao Konde has been discharged and the accused No. 2 is given sufficient time to produce another surety in support of his bail and he has failed to get the surety, therefore, only course open for this Court is to commit the accused No.2 to jail.

[6] Record shows that learned advocate appearing for the accused No. 2 has withdrawn his Vakalatnama from this matter vide pursis Exh.32, thus, the accused No. 2 is without advocate. He has submitted that he is unable to engage the advocate on his own. In such situation, the accused No. 2 will have to be given legal aid. Accordingly, message is given to the Secretary, D.L.S.A. Pune to send advocate who is on legal aid panel. Advocate Y. D. Purohit has come from the legal aid office. He is informed about the matter and he is allowed to take instructions from the accused No.2. He submits that appropriate order be passed.

In view of the above, following order is passed :

ORDER

- [i] Accused No. 2 - Mayur Rajendra Shinde is committed to the Yerwada Jail, Pune, pursuant to the provisions of Section - 444(3) of the Code of Criminal Procedure.
- [ii] The Jail Authorities to provide necessary medical help to the accused as he has stated that he is not well. Prior to taking the accused No. 2 to the Jail, the concerned Police Station i.e. Shivajinagar Police Station to get accused No. 2 medically examined from the Doctors of Government Hospital and provide necessary medication as may be advised by the Doctors.
- [iii] Advocate Y. D. Purohit is appointed to defend on behalf of accused No. 2. He be provided the copies of all papers.
- [iv] Matter adjourned to 20.01.2020.

Place - Pune
Date - 07.01.2020.

(Neeraj P. Dhote)
Principal District & Sessions Judge
Pune.

I affirm that the contents of this P.D.F.,file judgment are same word for word as per original Judgment.

Name of Steno : Sou. S.S. Yengul
Stenographer (Grade-1)

Court Name : Principal District Judge, Pune.

Date : 07.01.2020.

Judgment signed by
P.O. on : 07.01.2020.

Judgment uploaded on : 08.01.2020.