

No. RJ17/2019

High Court of Karnataka
Bengaluru – 560001
Dated : 12th June 2019

CIRCULAR

In view of the decision of the Hon'ble Supreme Court of India in the case of M/s Gati Ltd. Vs. T. Nagarajan Piramiajee and another, in Criminal Appeal No.870/2019 arising out of SLP(Crl.)No.6677/2018 on 6.5.2019, wherein referring to the case of Shahzad Hasan Khan Vs. Ishtiaq Hasan Khan (1987) 2 SCC 684 it is observed at para No.5 as under :

“the convention that subsequent bail application should be placed before the same judge who may have passed earlier orders has its roots in principle. It prevents abuse of process of court inasmuch as an impression is not created that a litigant is shunning or selecting a court depending on whether the court is to his liking or not, and is encouraged to file successive applications without any new factor having cropped up. If successive bail applications on the same subject are permitted to be disposed of by different Judges there would be conflicting orders and a litigant would be pestering every Judge till he gets an order to his liking resulting in the creditability of the court and the confidence of the other side being put in issue and there would be wastage of courts' time. Judicial discipline requires that such matters must be placed before the same Judge, if he is available for orders”.

Further in the case of State of Maharashtra V. Captain Buddhikota Subha Rao 1989 Supp (2) SCC 605, the Hon'ble Supreme Court of India observed as under :

“In such a situation the proper course, we think, is to direct that the matter be placed before the same learned Judge who disposed of the earlier applications. Such a practice or convention would prevent abuse of the process of court inasmuch as it will prevent an impression being created that a litigant is avoiding or selecting a court to secure an order to his liking. Such a practice would also discourage the filing of successive bail applications without change of circumstances. Such a practice if adopted would be conducive to judicial discipline and would also save the Court's time as a Judge familiar with the facts would be able to dispose of the subsequent application with despatch. It will also result in consistency”.

In the decision of Vikramjit Singh V. State of Madhya Pradesh 1992 Supp (3) SCC 62, the Hon'ble Supreme Court of India observed as under :

“otherwise a party aggrieved by an order passed by one bench of the High Court would be tempted to attempt to get the matter reopened before another bench, and there would not be any end to such

attempts. Besides, it was not consistent with the judicial discipline which must be maintained by courts both in the interest of administration of justice by assuring the binding nature of an order which becomes final, and the faith of the people in the judiciary”.

The Hon'ble Supreme Court of India again in the case of Jagmohan Bahl and another V. State (NCT of Delhi) and another (2014) 16 SCC 501, observed as under :

“when the Sixth Additional Sessions Judge had declined to grant the bail application, the next Fourth Additional Sessions Judge should have been well advised to place the matter before the same Judge. However, it is the duty of the prosecution to bring it to the notice of the Judge concerned that such an application was rejected earlier by a different Judge and he was available. In the entire adjudicatory process, the whole system has to be involved. The matter would be different if a Judge has demitted the office or has been transferred. Similarly, in the trial court, the matter would stand on a different footing, if the Presiding Officer has been superannuated or transferred. The fundamental concept is, if the Judge is available, the matter should be heard by him. That will sustain the faith of the people in the system and

nobody would pave the path of forum-shopping, which is decryable in law”.

In view of the principles stated by the Hon'ble Supreme Court of India in the above referred decisions, the subsequent / successive bail petitions shall be posted before the same bench which had earlier disposed of the bail petitions.

Therefore, all the concerned officers / officials of the Principal Bench and Branches at Dharwad and Kalaburagi Benches (Criminal Branch and Board Branch) to meticulously follow the directions of the Hon'ble Supreme Court of India and to post the subsequent / successive bail petitions before the same Bench which had earlier disposed of the bail petitions.

BY ORDER OF THE HON'BLE CHIEF JUSTICE

Sd/-

REGISTRAR (JUDICIAL)

Copy to :

1. The Additional Registrar General, High Court of Karnataka, Dharwad Bench
2. The Additional Registrar General, High Court of Karnataka, Kalaburagi Bench
3. The Deputy Registrar Criminal Branch & Board Branch – for information.
4. The Assistant Registrars/ Section Officers of Criminal Branch & Board Branch – to circulate among all the staff members with an instruction to strictly follow the direction issued by the Hon'ble Court.
5. Office copy.