

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 357 OF 2015**

Kirti Manmohandas Kanakia	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. O. A. Siddiquie with Mr. Kamran Shaikh for the Applicant

Ms. P. P. Shinde, A.P.P for the Respondent-State

Mr. Mayur Bhojwani with Ms. Saanya Chowkulkar i/b Manilal Kher
Ambalal & Co. for the Intervener

Mr. Ramesh Yadav, Economic Offences Wing, Unit-1 is present

CORAM : REVATI MOHITE DERE, J.

THURSDAY, 12TH MARCH, 2015

P.C. :

1. Heard learned Counsel for the applicant, the learned A.P.P and
the learned Counsel for the intervener.

2. It appears that the applicant had preferred an application
seeking bail being Bail Application No. 1564 of 2013 in the Sessions
Court. Interim bail was granted to the applicant, only on the ground, that
the applicant had agreed to deposit a certain sum of money and was to

amicably settle the matter with the complainant. Admittedly, the said application was not considered on merits. The learned Sessions Judge vide order dated 6th March, 2014, rejected the bail application only on the ground, that despite seeking extension, the applicant had not complied with the order passed by the Court, nor had he settled the matter amicably with the complainant. The said order dated 6th March, 2014 was challenged by the applicant in this Court, by filing Bail Application Nos. 488 and 489 of 2014. It appears that the said applications came to be rejected by this Court (Coram : Sadhana S. Jadhav, J.) vide order dated 13th October, 2014, only as the applicant had failed to comply with the one-time settlement as agreed with the Banks. This Court in paras 3 and 4 had observed as under :

“3. The applicant was granted interim bail by the Sessions Court vide order dated 19.8.2013 only to satisfy the debt of the concerned Banks. It appears that before the Sessions Court, the applicant had submitted that he is making sincere efforts to repay the debt of the Banks and, therefore, he was granted protection. By an order dated 6.3.2014, the Sessions Court had withdrawn interim orders and had rejected the application since it was observed that although the Bank has agreed for one-time settlement and also accepted the proposal and schedule as was offered by the applicant for repayment as per the letter dated 18.12.2013. The applicant had not approached the Axis Bank. A period of three months was granted to the applicant to settle the debt. However, even after expiry of 3 months, the applicant had not taken concrete steps to comply with the one-time settlement. No document was produced before the Court to show that the condition was complied by the applicant and, therefore, the

Sessions Court had rightly observed that there are no satisfactory reasons for confirming the interim bail which was granted in favour of the applicant. In these premises, the application was rejected by an order dated 6.3.2014. The said order is impugned before this Court by the present applicant i.e. Criminal Bail Application Nos. 488 of 2014 and 489 of 2014.

4. This Court vide order dated 19.3.2014, at the time of production, had extended the interim relief granted in favour of the applicant. The said interim protection was extended from time to time only because the applicant had demonstrated before this Court that he is making efforts to repay the debt of the respective Banks. On 7.5.2014, the Intervenor Banks had demonstrated before the Court that the applicant is not making any proposal though assured before the Sessions Court and also at the time of hearing before this Court. On 7.5.2014, this Court was hopeful that the applicant would submit a written proposal till the next date. This Court had also made efforts to see that the applicant complies with the assurance of making efforts to repay the debt of the Banks. The money involved is a public money and it is apparent on the face of the record that the applicant had misled the Banks at the time of soliciting loans. Before this Court, the Investigating Officer of the Economic Offences Wing was also directed to give a photocopy of the documents to Citi Bank as well as to the applicant. The applicant was also directed to furnish a copy of the agreement in his possession to both the Banks i.e. Citi Bank as well as Axis Bank for the purpose of verification.”

3. Admittedly, the applications, both before the learned Sessions Judge and this Court were not considered on merits. Learned Counsel for the applicant seeks leave to withdraw this application with liberty to file a fresh application before the Sessions Court and pursue the same on merits.

4. The learned Counsel appearing for the intervener, does not dispute the fact, that the bail applications before both the Courts, were not considered on merits. Since the earlier bail applications were not argued on merits, the applicant is permitted to withdraw this application with liberty to file a fresh application before the learned Sessions Judge on merits.

5. It is made clear, that if such an application is filed, the learned Sessions Judge will decide the same on its own merits, in accordance with law, uninfluenced by the withdrawal of this application.

6. The application is disposed of in the above terms.

REVATI MOHITE DERE, J.