

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 246 OF 2015
in
CRIMINAL APPLICATION No. 354 OF 2012
IN
CRIMINAL APPEAL No. 256 OF 2012

Lalit Timoti D'souza. ..Applicant.
Versus
State of Maharashtra. ..Respondent.

Mr. Rahul Arote for the Applicant.
Mr. I. A. Bagaria for the Appellant in Appeal
Mr. J. P. Yagnik, learned APP for the State.

Coram : RANJIT MORE &
ABHAY M. THIPSAY, JJ.
Date : **November 21, 2015.**

P. C. :

1. Heard Mr. Arote, learned Counsel appearing for the Applicant, Mr. Bagaria, learned Counsel appearing for the original complainant and Mr. Yagnik, learned APP for the State.

2. By the extant application, the Applicant is seeking relaxation / modification in the conditions of bail granted to him *vide* order dated 13th March 2012. The Additional Sessions Judge, Greater Mumbai in Sessions Case No.140 of 2008 has convicted the Applicant for the offence punishable under section 326 of the

Indian Penal Code, 1860 and sentenced him to suffer RI for three years and to pay fine of Rs.1,00,000/- out of which Rs.50,000/- is directed to be paid to Lorna D'souza. The Applicant challenged this order by filing an appeal before this Court, being Criminal Appeal No.256 of 2012. The appeal is admitted. The Applicant also filed an application for bail, being Criminal Application No. 354 of 2012. The said application came to be disposed of by the order dated 13th March 2012 whereunder the Applicant has been granted bail subject to following conditions :

- “[i] the Applicant shall deposit fine amount, if not already deposited, in the trial Court, before executing the bail-bond.*
- [ii] the Applicant shall not leave jurisdiction of this Court without seeking prior permission of this Court.*
- [iii] the Applicant shall not stay in Flat No. 71 of Sayonara Building, 7th floor, Capt. Prakash Pethe Marg, Cuffe Parade, Mumbai till the disposal of the Appeal.*
- [iv] In case of urgency, the Applicant may enter in Flat No. 71 of Sayonara Building, 7th floor, Capt. Prakash Pethe Marg, Cuffe Parade, Mumbai in presence of the officer of Cuffe Parade Police Station, after giving notice to him.”*

3. The Applicant is aggrieved by condition No. [ii]

above. The learned Counsel appearing for the Applicant submitted that the Applicant is in hotel business and in relation to his business transactions he would be required to travel throughout India. He also submitted that the Applicant has ancestral property at Mangalore and to manage the same he is required to visit Mangalore frequently and therefore he is seeking relaxation in Condition No.[ii].

4. Mr. Bagaria, learned Counsel appearing for the original complainant submitted that he has no objection to relax condition no.[ii] so that the Applicant can visit Mangalore. Mr. Bagaria, however, opposed total relaxation of the said condition.

5. By condition No. [ii], the Applicant is required to take prior permission before leaving the jurisdiction of this Court. Admittedly, the Applicant has ancestral property at Mangalore and that he is in hotel business and in relation to hotel business transactions he is required to move throughout India. We are, therefore, of the opinion that Condition No.[ii] of bail imposed on the Applicant vide granting bail vide order dated 12th March 2012

needs to be relaxed. Hence, we pass following order.

Condition No.[ii] imposed on the Applicant by this Court while granting bail *vide* order dated 13th March 2012 in Application No.256 of 2012 is relaxed subject to following conditions :

- (a) the Applicant shall not leave India.
- (b) the Applicant shall deposit his Passport with the Registry of this Court within two weeks from today.
- (c) Whenever the Applicant wants to leave jurisdiction of this Court, he shall give intimation to Cuff Parade police station about his itinerary.

[ABHAY M. THIPSAY, J.]

[RANJIT MORE, J.]