

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPLICATION NO.703 of 2015
WITH
CRIMINAL APPLICATION NO.752 OF 2015

Umesh Kumar Baveja & Anr. ..Applicants
-Versus-
State of Maharashtra ..Respondent

Mr. Sanjeev Kadam for applicants
Ms. S.S.Kaushik, APP for State
Mr. Harsh Malhotra party in person /intervenor in APP 752 of 2015.

CORAM : A.S.GADKARI, J.

DATE : 9th December 2015.

P.C.

1] This is an application for modification of order dated 21st January 2015 passed by Sessions Judge, Greater Mumbai in B.A.No.91 of 2014. By the said order, while releasing the applicants on bail, the trial court amongst other conditions had imposed a condition directing that the applicants shall furnish P.R.bond of Rs.2 lakhs each with local solvent sureties of like for each applicant. Learned Counsel for the applicants submitted that as the applicants were not able to furnish local solvent sureties immediately although

the order of bail dated 21st January 2015 was granted in their favour, they were languishing in jail for want of local surety, the learned Sessions Judge was pleased to permit the applicants to furnish sureties from their places of residence instead of local sureties by its order dated 9th February 2015.

2] Further, since the applicants were unable to furnish sureties from their places of residence, they filed application in this Court for modification of order dated 9th February 2015, being Application No.95 of 2015 in Bail Application No.91 of 2015. The Learned Single Judge of this Court by order dated 19th March 2015 was pleased to allow the said application and directed that the applicant shall be released on cash bail of Rs.2 lakhs for a period of six weeks. The period granted to furnish sureties was further extended by this Court vide order dated 8th May 2015 in Criminal Application No.405 of 2015.

3] Mr. Kadam, learned Counsel for the applicants submitted that while filing the bail application before the trial court, the applicants have given their address of Bangalore, State of Karnataka. He

further submitted that the applicants are holding passport having address of Delhi and Bangalore respectively. He further contended that as the trial court has imposed condition of furnishing local sureties, it is very difficult for his clients to procure such a surety. He further contended that though his clients have submitted documents of sureties, it is the complainant who is objecting each and every surety on the ground that the documents of surety submitted from Delhi and Bangalore cannot be termed as local solvent sureties. The complainant who is appearing in person submitted that he has no objection if the surety is submitted from Bangalore, however, he has objection for the surety from Delhi.

4] It is the settled position of law that the order of bail comes into effect immediately after it is passed and the condition of submitting surety is imposed only with a view to secure the presence of accused at the time of trial. The pleadings in the present application are very specific. The applicants have stated that they are unable to furnish local surety either from Mumbai and, therefore, they are praying that they may be allowed to furnish solvent surety from Delhi and Bangalore respectively. The order of granting bail to the

applicants was passed on 21st January 2015 and since then for almost about 11 months the applicants are unable to submit any surety from and within the local jurisdiction of Mumbai. In view of the above, I am inclined to allow the application. Hence, following order:-

- (i) The condition imposed in clause (2) of Order dated 21st January 2015 by the trial Court in B.A.No.91 of 2015 is hereby modified and the applicants are permitted to furnish solvent surety as has been directed by the trial court, from Delhi and Bangalore respectively. The application is allowed in the aforesaid terms.
- (ii) In view of disposal of the present application, Criminal Application No.752 of 2015 does not survive and is accordingly disposed off.

(A.S.GADKARI, J)