

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1806 OF 2015**

Rashida Abdul Salim Ansari

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. N. R. Bubna for the Applicant

Ms. Rutuja Ambekar, A.P.P for the Respondent-State

API Mr. B. S. Gangurde from Cuff Parade Police Station is present

CORAM : REVATI MOHITE DERE, J.
MONDAY, 28TH SEPTEMBER, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks her enlargement on bail in Criminal Case No. 384/PW/2008, pending in the Court of the learned Metropolitan Magistrate, 2nd Court, Mazgaon, Mumbai. The said Criminal Case arises out of C.R. No. I-7 of 2008 registered with the Dongri Police Station, Mumbai, for the alleged offences punishable under Sections 380, 511 r/w 34 of the Indian Penal Code.

3. The case pertains to the year 2008. In the aforesaid C.R, the applicant was arrested on 7th January, 2008 and was immediately released on bail on the very next date i.e. on 8th January, 2008.

4. Learned Counsel for the applicant states that the applicant is a resident of Malegaon, whereas, the case was registered against her at Mumbai. He submitted that as the applicant failed to attend the case on the given dates, warrant came to be issued as against her. He submitted that there was a proclamation also issued under Section 82 of the Cr. P. C as against the applicant and it is pursuant to the said standing warrant of arrest which was issued, that the applicant was again arrested on 21st July, 2015. He submits that the applicant filed an application for her enlargement on bail, before the learned Metropolitan Magistrate, however, the same was rejected by the learned Magistrate vide order dated 24th July, 2015. He submitted that the applicant thereafter preferred an application before the Sessions Court and the Sessions Court was also pleased to reject the said application vide order dated 25th August, 2015. He submitted that while rejecting the said application for bail, the learned Additional Sessions

Judge, Greater Bombay directed the learned Metropolitan Magistrate, Court No. 2, Mazgaon, Sewree to dispose of the case bearing CC No. 384/PW/2008 within three months from the date of receipt of the order.

5. Learned Counsel for the applicant submits that as the applicant has breached the bond executed by her when she was enlarged on bail, the learned Metropolitan Magistrate forfeited the said bond and the cash security. He submitted that the applicant is ready to give an undertaking that she will furnish her address and contact numbers to the Trial Court; and is also ready to give an undertaking to the effect, that she will remain present on every date of hearing before the Trial Court, unless there are exceptional circumstances justifying non-attendance. He submits that the applicant is an uneducated lady and that the failure to attend was neither deliberate nor willful.

6. Learned A.P.P submits that the Investigating Officer has verified the address of the applicant and states that the applicant is from Malegaon. Learned A.P.P is unable to inform the progress of the trial.

7. Perused the papers. The case as against the applicant is of the year 2008. No doubt, the applicant has failed to attend the Court on the given dates, pursuant to which the Trial Court was compelled to issue a proclamation and standing warrant as against the applicant, after which the applicant was arrested. However, in view of the statement made by the learned Counsel for the applicant that the applicant will furnish an undertaking in the Trial Court that she will appear on all the dates given by the Trial Court for the said case and that she will furnish her address and the contact numbers to the Investigating Officer of Dongri Police Station as well as to the Court seized of the case, the application is allowed. Accordingly, the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 10,000/- with one or two sureties in the like amount;
- (ii) The applicant shall file an undertaking in the Trial Court within two weeks of her release, that - (a) She will attend the Trial Court on all the dates given, unless there are exceptional

circumstances justifying non-attendance; (ii) She will furnish the address and the contact numbers both to the Investigating Officer as well as to the Court seized of the case;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant to cooperate with the conduct of the trial.

8. Since the Sessions Judge has already directed that CC No. 384/PW/2008 be disposed of within three months, the learned Metropolitan Magistrate Court No. 2 Mazgaon, Sewree shall make an endeavour to dispose of the said case as expeditiously as possible and preferably within three months from the date of receipt of this order.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie*, and the Trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

11. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.

CERTIFICATE

Certified to be true and correct copy of the original signed
order.
