

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.1861 OF 2015

Remigus Chizoba alias Mark Mure .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.S.Ambure i/b. M/s.Dinesh Tiwari & Associates,
Advocate, for the Applicant

Mr.Y.M.Nakhwa, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 12.10.2015

P.C.

. Heard learned counsel for the applicant
and the learned APP.

2. By this application, the applicant
seeks relaxation/modification of condition (F)
imposed by the learned Additional Chief
Metropolitan Magistrate, 24th Court, Borivali,
Mumbai vide its order dated 20.07.2015, whilst
enlarging the applicant on bail.

3. The applicant is a Nigerian citizen. The applicant was arrested in connection with C.R.No.260 of 2015 registered with the Malad Police Station for the alleged offences punishable under Sections 406, 419, 420 r/w.34 of the Indian Penal Code, Section 66(D) of the Information Technology Act and under Section 14 of the Foreigner Act.

4. It appears that as the prosecution had failed to file charge-sheet within 60 days, the applicant was enlarged on bail under Section 167(2)(a)(ii) of the Code of Criminal Procedure. While enlarging the applicant on bail under Section 167(2)(a)(ii) of the Code of Criminal Procedure, the learned Additional Chief Metropolitan Magistrate, Mumbai vide order dated 20.07.2015 was pleased to impose the following conditions:

"

ORDER

Accused released on bail U/sec. 167(2)(a)(ii) of Cr.P.C. on his execution solvent surety of Rs.1,00,000/- and PR. of like amount.

It is stipulated that:-

A) accused shall furnish proof of resident of surety and himself in the nature of public document.

B) accused shall remain present before PSO Malad Police Station on every alternate day in between 11.00 a.m. to 12.00 noon., till filing charge-sheet or till further order.

C) accused shall not indulged like activity.

D) accused shall not commit any breach of conditions.

E) accused shall not leave jurisdiction of this court without prior permission of the court.

F) **accused shall deposit his passport."**

5. Learned counsel for the applicant is pressing only for modification/relaxation of

condition (F) of the aforesaid order which is 'accused shall deposit his passport'. Learned counsel for the applicant states that the applicant has lost his passport and does not have the passport with him. He submits that as the applicant has lost his passport, he is unable to comply with condition (F) of the aforesaid order. Learned counsel for the applicant states that the Nigerian Embassy has been informed about the aforesaid case registered as against the applicant on 28.05.2015.

6. Learned APP on the instructions of the investigating officer, who is present in Court states that they have informed the immigration authorities on 28.05.2015 about the case registered against the applicant and to ensure that the applicant does not leave the country.

7. If as submitted by the learned counsel for the applicant that the applicant's passport is lost, then condition (F) can never be complied with and the applicant will not be able to avail of the bail granted to him. The prosecuting agency has informed the Immigration authorities about the case and therefore steps have been taken to ensure that the applicant does not leave the country. Considering the aforesaid, the Application is allowed and condition (F) imposed by the learned Additional Chief Metropolitan Magistrate, 24th Court, Borivali, Mumbai vide its order dated 20.07.2015 is modified/relaxed. As far as rest of the conditions are concerned, the learned counsel states that he does not press for modification/relaxation of the same, at this stage, and hence the same is not considered.

8. Accordingly, the Application stands disposed of.

(REVATI MOHITE DERE, J.)