

Anand

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

BAIL APPLICATION NO.1890 OF 2015

Salmankhan alias Babaloo S/o. .Applicant
Salimkhan alias Rajjak Khan

v/s.

The State of Maharashtra .Respondent

Mrs.T. Bhosale i/b. Mr.R.S.Kate, Advocate, for
the Applicant

Mr.S.H.Yadav, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 21.10.2015

P.C.

. Heard learned counsel for the applicant
and the learned APP for the respondent – State.

2. Despite the matter being adjourned at
the behest of the learned APP on 20.10.2015,
today also the learned APP requests for an
adjournment. He states that he has no
instructions in the said case.

3. A few dates may be noted here; the incident in question is alleged to have taken place on 06.03.2013; the applicant was arrested in connection with C.R.No.71 of 2013 registered with the Walchandnagar Police Station, Taluka – Indapur, District – Pune, for the alleged offences punishable under Sections 407, 420, 468, 471, 411 r/w.34 of the Indian Penal Code on 18.11.2013; and as the police failed to file charge-sheet within the stipulated period, the applicant came to be enlarged on bail under Section 167(2) of the Code of Criminal Procedure on 24.02.2014. It appears that as the applicant had not attended the trial Court proceedings on a few dates, an NBW was issued on 12.06.2015 against the applicant.

4. Learned counsel for the applicant states that pursuant to the NBW which was issued, the applicant appeared suo motu before

the learned Magistrate on 23.06.2015 and sought cancellation of the NBW which was issued against him. Learned counsel for the applicant states that the said application seeking cancellation of the NBW was rejected by the learned JMFC, Indapur vide order dated 23.06.2015. Thereafter, an application was preferred by the applicant seeking his enlargement on bail which was also rejected by the learned JMFC, Indapur vide order dated 04.08.2015 on the ground, that the co-accused in the said case was an undertrial prisoner and the matter was being delayed due to the absence of the applicant, who was enlarged on bail. Thereafter, the applicant preferred an application before the learned Addl. Sessions Judge, Baramati, seeking his enlargement on bail, which was also rejected by the learned Addl. Sessions Judge, Baramati vide order dated 27.07.2015. It was observed by the learned Sessions Judge that because of the absence of

the applicant, NBW was required to be issued against him and that the applicant is a resident of Madhya Pradesh. It also appears that the learned Sessions Judge has considered the merits of the case. Learned counsel for the applicant has tendered an undertaking of the applicant which is taken on record and marked as "X" for identification wherein, he has undertaken to attend the trial Court regularly without any default. Learned counsel for the applicant states that till date, charge has not been framed in the said case.

5. Learned APP states that he has no instructions. However, opposes the bail application.

6. Perused the papers. Although no fault can be found in the orders passed by the learned JMFC and the learned Sessions Judge rejecting

the applicant's application for bail. However, only in view of the undertaking given by the applicant, that the present application is being considered. In view of the undertaking given by the applicant that he will attend the Court regularly without any default, the applicant is enlarged on bail on the following terms & conditions:

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.25,000/- with one or two local sureties in the like amount;
- (ii) The applicant shall attend the Walchandnagar Police Station, Taluka – Indapur, District – Pune on every Saturday between 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;
- (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 shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial;

(vi) The applicant shall not leave the jurisdiction of Taluka – Indapur, District – Pune, till the conclusion of the case, except with the permission of the trial Court;

(vii) The applicant shall file an undertaking with respect of Clause Nos.(ii) to (vi) in the trial Court, within two weeks of his release;

(viii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

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

8. 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.

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

(REVATI MOHITE DERE, J.)