

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.729 OF 2015

Arjun Kisanlal Saini.	Applicant.
vs.	
The State of Maharashtra.	...Respondent.

Mr.Anil G. Lalla with Beerta Bajwa with Zahra Kanji with Monika N.M.
i/by Lalla & Lalla for the Applicant.
Ms.S.S.Kaushik, APP. for the Respondent State.

CORAM : A.S.GADKARI, J.
DATE : 23.11.2015

P.C.

This is an application for modification of bail order dated 31.10.2015 passed by the learned Additional Sessions Judge, Mumbai in Bail Application No.2692 of 2015. The applicant has been arrayed as an accused in CR No.354/2015 registered with L.T. Marg Police Station, Mumbai under Section 406 of the I.P.C. on the allegation that the applicant has committed criminal breach of trust of the complainant to the tune of Rs.12.50 lacs. The learned Trial Court by its order dated 31.10.2015 was pleased to release the applicant on bail on his executing P.R. bond of Rs.5.00 lacs with one or two solvent sureties in the like amount to make up the said amount. The said order was passed on 31.10.2015. Mr. Lalla, the learned counsel appearing for the applicant submitted that though the applicant tried his level best to get two solvent sureties in the like amount, he was not successful as the said condition imposed by the trial court is onerous one. He further submitted that the Supreme Court has time

and again held that condition of bail should be commensurate with nature and the gravity of the offence involved therein. Mr. Lalla further contended that imposing such condition would amount to denial of bail, once the court has come to the conclusion that the applicant is entitled for bail a condition which the applicant can be able to fulfill must be imposed upon him. He further contended that the applicant is a permanent resident of Mumbai. Mr. Lalla further submitted that condition No.2(h) in the said order is also harsh condition as the applicant does not have any antecedent in his credit and this is the case which is arising out of business transaction, is being suffered by the applicant. He fairly conceded the fact that if the applicant had any intention to go abroad he will inform the said fact to the Investigating Officer and the Trial Court before leaving the country for business purpose.

2) After taking into consideration the fact that the learned Trial court has held that the applicant is entitled to be released on bail on condition of PR bond and surety of Rs.5.00 lacs. The appellant is unable to comply with the same. is undoubtedly onerous one. It is also to be noted that though the order was passed on 31.10.2015, till date, the applicant could not secure the surety, In view of the same, the following order.

ORDER

a) Condition No.2 in order dated 31.10.2015 is hereby modified and the applicant is released on bail on his executing

personal bond of Rs.1.00 lacs with one or two solvent sureties in the like amount.

b) Condition 2(h) is also modified and the applicant is permitted to retain his pass port. However, it is made clear that if the applicant is willing and desirous to go abroad, he shall intimate the said fact to the Investigating Officer and also to the trial court in writing.

c) Rest of the order dated 31.10.2015 is not disturbed.

d) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)