

vks

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINL APPELLATE JURISDICTION
CRIMINAL APPLICATION 1464 OF 2015
IN
CRIMINAL BAIL APPLICATION NO.763 OF 2007
IN
CRIMINAL APPEAL NO.616 OF 2007

Munir Moosabhai Radhanpura ... Applicant.

In the matter between

Abdul Sattar Haji Jivabhai Radhaanpura
@ Sattar Teli .. Accused

V/s.

The State of Maharashtra Respondent

Mr. Samir Shisode, for the applicant.
Mr. Bhavesh Thakur, for the accused
Mrs. V. R. Bhosale, APP for the Respondent-State.

CORAM : SMT. V.K. TAHILRAMANI ACTING CJ &
DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 14th DECEMBER, 2015.

P.C. : [Per : Dr. Shalini Phansalkar-Joshi, J.]

1. This application is preferred by the surety of accused No. 2
Abdul Sattar Haji Jivabhai Radhanpura @ Sattar Teli, seeking discharge
from the surety bond.

2. It is submitted that the accused No.2 was convicted by Special Court under M.C.O.C. Act, Mumbai, on 13.06.2007 in MCOC Special Case No.3 of 2003. He has preferred appeal against the said conviction and in the said appeal, he was released on bail on 7th August 2007, in the sum of Rs.1,00,000/- with one solvent surety, as per order passed in Criminal Bail Application No.763 of 2007 in Criminal Appeal No.616 of 2007. The applicant herein stood as surety for the accused and continued till date. While executing surety bond, the applicant has produced certain documents such as Ration Card, Share Certificate etc which are on the address of his flat at Kedy Tower CHS, Flat No.401, 4th floor, 233/234 Belassis Road, Mumbai-8. Now son of applicant Mr. Arif Munir Radhanpura is desirous of starting some business and therefore, the applicant wants to make a gift deed of the said flat in his son's name so as to facilitate his son to use the same flat as bank guarantee to obtain loan for his business. According to him unless and until he is discharged as surety of the accused, he will not be able to use those documents for any other purpose. At present he is not in a position to execute gift deed of the flat in the name of his son. Hence he has filed this application seeking his discharge from the surety bond of

the accused with further prayer that till the accused furnishes new surety and complete all necessary formalities in that regard, his surety bond may be continued.

3. On this application, a notice was issued to the accused. Accused has filed his affidavit-in-reply stating inter-alia that he has no objection to discharge the surety bond of applicant as he has arranged for another surety in lieu of present applicant. One Mr. Abdul Kadar Mohd. Yusuf Shaikh, resident of 22/28, 1st Floor, Room No.102, Marium Apartment, Ismail Karte Road, Mumbai 400 003, is ready to stand as surety for him. He is also solvent for an amount of Rs.1,00,000/-. His solvency certificate issued by Naib Tahsildar, Mumbai City, Mumbai dated 26th October, 2015 is also annexed with the affidavit.

4. In our considered opinion, in view of the fact that the accused has arranged for another surety in place of applicant and same surety appears to be solvent one, in view of solvency certificate produced at Exhibit "A", this application made by the applicant for his discharge can be allowed. Hence order.

Order

1. Application is allowed.
2. Mr. Abdul Sattar Haji Jivabhai Radhanpura @ Sattar Teli, to furnish fresh surety bond in the sum of Rs.1,00,000/- in place of present surety, within four weeks from the date of this order. Till accused furnishes new surety and completes all the necessary formalities in this regard, the surety of present applicant is to continue.
3. On furnishing of new surety and completing of necessary formalities by new surety, the present applicant to stand discharged as surety.

[ACTING CHIEF JUSTICE.]

[DR. SHALINI PHANSALKAR-JOSHI, J.]

CERTIFICATE

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