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

CRIMINAL APPLICATION NO.226 OF 2016

Kiran Ananda Chougule

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.R.S.Kulkarni, for the Applicant

Mr.Y.M.Nakhwa, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 3rd MAY, 2016

P.C. :

1. Heard learned Counsel for the applicant.
2. This is an application seeking relaxation of the condition no.2(i) set out in the order dated 9th March, 2016, passed by the learned Sessions Judge, Solapur, below Exhibit – 1 in Criminal Bail Application No.251 of 2016. The condition of which relaxation is sought reads thus :-

“2.(i) Applicant or his relatives to deposit an amount of Rs.3,50,000/- (Rs.Three Lakhs Fifty Thousand only) in J.M.F.C.Court No.3, Solapur, within one month from today which shall be a condition precedent for releasing the applicant on bail. The said amount be invested in a fixed deposit in any

Nationalized Bank initially for one year to be renewed there after from time to time.”

3. Learned Counsel for the applicant submits that the learned Judge ought not to have imposed the said condition as the said condition was an onerous and an unreasonable condition. He submitted that admittedly the applicant was an employee of the institute and merely because a statement was made by the complainant in the FIR that a sum of Rs.3,50,000/- was given to Sandeep P. Nikam and Kiran Chougule would not show that the said money was misappropriated by him, more particularly when the applicant was only an employee of the said institute. He relied on the Judgment of the Apex Court in the case of ***Sumit Mehtay v/s State of N.C.T. Of Delhi***¹ and in the case of ***Sheikh Ayub v/s State of M.P.***², in support of his submission. He submitted that the said condition imposed by the learned Judge was unwarranted and hence the said condition be relaxed, being an onerous and unreasonable condition in the facts of the present case.

4. Learned APP is unable to show that the applicant was not an

1 2013 AIR SCW 5947

2 (2004) 13 SCC 457

employee of the said institute where the candidates were being recruited. Neither, has the APP been able to point out that an amount of Rs.3,50,000/-was deposited by the applicant in his bank.

5. Perused the papers and the judgments relied upon by the learned counsel for the applicant.

6. The aforesaid condition directing the applicant to deposit a sum of Rs.3,50,000/- as a condition precedent for releasing the applicant on bail in the facts of the case, is an onerous and unreasonable condition and hence the said condition is relaxed. The rest of the order 9th March, 2016, passed by the learned Sessions Judge, Solapur, below Exhibit – 1 in Criminal Bail Application No.251 of 2016, to remain as it is.

7. The application is accordingly allowed in the above terms.

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

REVATI MOHITE DERE, J.