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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 61 OF 2015

Vilas Nilkanth Patil

..Applicant.

Vs.

The State of Maharashtra & Anr.

..Respondents

Mr. Swapnil Ambre i/b Dinesh Tiwari & Associates for applicant.

Ms. Rutuja Ambekar, APP for State.

Mr. Ashok Singh for Respondent No.2.

CORAM: A.S. GADKARI, J.

DATE : 10th February 2016.

P.C.

1 This is an application for modification of condition imposed upon the applicant by an order dated 30.1.2014 and 26.12.2014. The applicant is an accused in CR No.355 of 2013 registered with Naupada Police Station, Thane under Sections 465, 467, 468, 420, 406, read with 120-B of the Indian Penal Code.

2 The learned Trial Court by its order dated 30.1.2014, was pleased to release the applicant on bail on certain conditions. The condition

-(A) reads as under:-

“A-He shall submit the bank guarantee of Rs.5 lacs in the office of India Bulls Finance Company (Complainant).”

3 Though the applicant was ordered to be released on bail by order dated 30.1.2014, he could not comply with the said condition and therefore he moved an application for modification of the said condition. The learned Trial Court by its order dated 26.12.2014 modified the said condition and directed the applicant to comply with the aforesaid condition by furnishing bank guarantee of Rs.5 lacs within a period of three weeks from the date of his release from jail. That the applicant was released on bail in the month of January 2015.

The learned Counsel for the applicant submitted that as the applicant was incarcerated for a period of two years, nobody is extending helping hand for him and his financial condition is precarious. That the applicant is surviving on the money earned by his wife who is employed. He submitted that he had agreed for furnishing the said bank guarantee after his release from jail, however, the practical difficulties which are in his way are precluding him from getting bank guarantee to the tune of Rs.5 lacs.

4 The learned Counsel for the original complainant vehemently opposed the present application and submitted that the present application

is an afterthought. That when the applicant was in jail, he agreed for the aforesaid condition and after his release he is now retracting from his statement made before the Court. He submitted that the said condition was imposed on the applicant with a view to make his presence at the time of trial and after taking into consideration the gravity of the offence by the Trial Court. He submitted that the present application may not be entertained and be dismissed.

5 As stated hereinabove, as the applicant could not comply with the aforesaid condition till 26.12.2014 i.e. even after a period of 11 months and therefore the Trial Court modified the said condition. It further appears that the applicant is unable to get and/or procure the bank guarantee to the tune of Rs.5 lacs only because he is an accused in the present crime. It appears to me that the condition put on the applicant is an onerous condition. In the circumstances, I am inclined to allow the present application.

6 Hence, the following order:-

(i) The condition for furnishing bank guarantee to the tune of Rs.5 lacs in the office of the respondent no.2 is hereby waived and the applicant is hereby directed to deposit Rs.1 lac (rupees one lac) by way of Demand Draft in the Registry of Trial Court within a period of three weeks

from today. The said amount shall remain in the Registry of Trial Court and the Trial Court shall pass appropriate order about the same at the time of conclusion of trial.

(ii) The amount so deposited in the Registry of this Court shall be without prejudice to the rights and contentions of the applicant/accused to be raised at the time of trial.

(iii) It is made clear that no further extension and/or modification of the condition will be entertained by this Court.

(iv) The application is allowed in the aforesaid terms.

(A.S. GADKARI,J.)