

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

CRIMINAL WRIT PETITION NO. 394 OF 2016

Vijay s/o. Shantikumar Dalmia. ... Petitioner.

Versus

The State of Maharashtra & ors. ... Respondents.

Mr. Chaitanya Malgaonkar i/b. GMS Legal, advocate for petitioner.

Mr. S.S. Pednekar, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : MAY 5, 2016**

P.C.:

1 This Petition is filed seeking extension of time for furnishing surety. By an order dated 29/1/2016, this Court (Coram : Smt. Sadhana S. Jadhav, J) had granted extension of time to furnish surety for a period of four weeks. This Court had considered that the Petitioner was directed to be enlarged on bail after filing of the charge-sheet and after hearing the application on merit, time was

extended for four weeks and the matter was due to be heard on 17/2/2016. The matter was not circulated.

2 It appeared before the Court that on 25/2/2016 this Court (Coram : Dr. Shalini Phansalkar-Joshi, J) had taken into consideration the submissions that the Petitioner could not arrange the sureties within the short period of four weeks. They could arrange only two sureties but considering the huge amount of Rs. 50,000/- each they require some time to arrange the sureties. The Court was pleased to extend the period for another four weeks.

3 On 22nd March, 2016, the matter appeared before Hon'ble Shri Justice A.S. Gadkari. The Hon'ble Court was pleased to pass an order that the period to furnish sureties granted by an order dated 25.1.2016 is extended by 3 weeks from 22/3/2016 by way of last chance. It was made clear that the said period will not be extended thereafter.

4 On 16th April, 2016 the learned Counsel for the Petitioner had circulated the matter seeking modification of the bail order. The Hon'ble Shri Justice A.S. Gadkari was pleased to direct the Registry to verify the roaster and place the matter before appropriate bench. Hence, the matter was placed before this Court on 20th April, 2016.

5 This Court had heavily come upon the investigating agency as to why they take time for verification and hence, time for furnishing fresh surety was extended upto 4th May, 2016. The learned Counsel had submitted that he would submit the name and details of the fresh surety by 5 p.m. of 21st April, 2016. The matter was then adjourned to 4/5/2016.

6 On 4/5/2016 the learned Counsel for the Petitioner had submitted that he had furnished sureties. However, the same was pending verification. This Court had called for the report. The matter was then adjourned to 5/5/2016.

7 Today, the learned APP has filed report submitted by Sr. P.I. of Dindoshi Police Station, Mumbai. It is submitted that the Petitioner has submitted surety of one Vinod Jhunjhunwala who happens to be cousin of the present Petitioner. At the time of verification, it was revealed that he does not hold any property to the tune of the given value, in Kandivali. Thereafter, the Petitioner has submitted that the surety of one Shivram Dashrath Garud, resident of Dr. Ambedkar Nagar, Malegaon, Nashik. Needless to say that Crime No. 570 of 2015 is registered at Dindoshi Police Station. Upon verification, it is revealed that Shivram Dashrath Garud happens to be appearing as habitual surety. It was also revealed that the said person has stood surety to 3 different persons during the period 1st January, 2016 to 3rd May, 2016. It was also revealed that in the year 2015 also he had stood surety for some accused. The police officers who had been for verification of the surety had also enquired with Shivram Garud, wherein he has disclosed to the police that on the say of one Yakubbbhai Vahid, a resident of Malegaon, he had agreed to stand as surety for the present Petitioner. It is also admitted that he does not

know the present Petitioner personally. It is also revealed that Shri Garud is working as mason on daily wages and by no means would be able to stand as a surety for an amount of Rs. 50,000/-. The report is taken on record and marked as Article "X" for the purpose of identification.

8 It is clear that a person who has been charge-sheeted for an offence punishable under Section 406 of the Indian Penal Code, is indulging into similar practices even after he has been enlarged on bail. The whole purpose of seeking surety for a person who is being released on bail would become redundant as there is element of cheating by furnishing false surety. In view of this, the Petition seeking extension of time for furnishing sureties is hereby rejected.

9 The learned Metropolitan Magistrate, 67th Court, Mumbai shall issue non-bailable warrant against the present Petitioner. However, this would not deprive the Petitioner by applying afresh under Section 439 of the Code of Criminal Procedure, 1973.

10 With these observations, the Writ Petition is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)