

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 269 OF 2016

Vs.

Mr.Adenwala Mohd. Shakeel, Advocate for the Applicant.
Mr.S.H.Yadav, APP for State.

P.C.

2. The applicant was prosecuted under Section 138 of the Negotiable Instruments Act and the learned Metropolitan Magistrate, 44th Court, Andheri, Mumbai was pleased to convict her by its judgment and order dated 29/10/2014. The applicant was sentenced to undergo simple imprisonment till the rising of the Court and was also directed to pay an amount of Rs.6,57,000/- to the complainant towards compensation. The applicant thereafter

preferred Criminal Appeal No. 942 of 2015 in the Court of Additional Sessions Judge, Greater Mumbai. The applicant also filed Misc. Application No. 3917 of 2014 for suspension of sentence and Misc. Application No. 3202 of 2014 for releasing her on bail pending Appeal. The learned Additional Sessions Judge, Greater Mumbai by its order dated 20/11/2015 was pleased to suspend the said sentence till the conclusion of the Appeal subject to the applicant furnishing a fresh personal bond and a surety bond of Rs. 15,000/- before the said Court within a period of 15 days from the date of the passing of the order. The surety to be furnished was directed to be “a local” surety.

3. The record discloses that the applicant failed to comply with the said condition of furnishing a local surety within the said stipulated period and therefore, the learned Additional Sessions Judge, Greater Mumbai by its order dated 08/01/2016 was pleased to extend the period for furnishing surety by 2 weeks as a last chance. It is also observed in the said order that the respondent i.e. original complainant had objected seriously for the said extension. On 08/01/2016, the learned Appellate Court adjourned the said matter on 27/01/2016 for hearing. It further appears from the record that the applicant failed to comply with the said condition even in the extended period and therefore, by an order dated 27/01/2016, the Appellate Court directed the applicant to surrender

before the said Court on 11/02/2016. The said order dated 27/01/2016 is impugned herein.

4. The learned Counsel for the applicant submitted that the applicant is employed with 'Air India' and had to attend her duty and therefore, she could not comply with the said condition within the stipulated period. He submitted that as of today, the applicant has furnished a local surety and the condition, though belatedly, has been complied with by the applicant.

5. As stated hereinabove, the substantive sentence of the applicant is to undergo simple imprisonment till the rising of the Court as has been imposed by the trial Court. It appears to me that directing the applicant to surrender before the Court for non-compliance of the condition for bail may cause injustice to her. In the circumstance, the applicant is hereby directed to comply with the condition imposed by the Appellate Court by its order dated 20/11/2015 within a further period of 2 weeks from today.

Hence, the following order :

- i) The applicant is hereby directed to comply with the condition of furnishing a local surety as directed by the order dated 20/11/2015 by the Appellate Court within a period of 2 weeks from today.
- ii) The order dated 27/01/2016 passed by the Additional Sessions Judge, Greater Mumbai is hereby set aside.

iii) It is made clear that if the applicant fails to comply with the said condition of furnishing a local surety within a period of 2 weeks from today, the Appellate Court is at liberty to take appropriate steps as per law.

6. The application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)