

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.373 OF 2015
IN
CRIMINAL BAIL APPLICATION NO.945 OF 2014**

Dahyaji Gobarji Vanzara .. Applicant
Versus
The State of Maharashtra & Anr .. Respondents

Mr.Hitesh P. Shah, Advocate for the applicant.

Mr.S.K.Shinde, Public Prosecutor for the CBI-Respondent no.2

CORAM : ABHAY M. THIPSAY, J.

DATED : 1st MARCH, 2016

P.C. :

1 Heard Mr.Hitesh P. Shah, learned counsel for the applicant. Heard Mr.S.K.Shinde, learned counsel for the CBI – respondent no.2.

2 The applicant who is the accused no.1 in Sessions Case No.177/13 which has been clubbed with Sessions Case No.178/15, 577/13 and 312/14, pending before the Court of Sessions in Mumbai was released on bail by this Court by an order dated 11th September 2014, subject to certain conditions.

3 By the present application, the applicant prays that the conditions at Sr.Nos.(iv) and (v) in the operative part of the said order releasing him on bail, be cancelled/modified.

4 These conditions are as follows :-

(iv) After his release on bail, the applicant shall have to stay in Mumbai and report to the trial Court at 11.00 am sharp on every Monday, Wednesday and Friday. Should the Court be closed on any such Monday, Wednesday and/or Friday, the applicant shall report to the trial Court on the next working day.

(v) The applicant shall not enter into the local limits of State of Gujarat without the express permission of the trial Court.

5 It is submitted that these conditions are harsh and that, they be modified in the changed circumstances. It is emphasized that while releasing some of the accused in this case, on bail, this Court had not imposed any such conditions upon them.

6 Though that while releasing some other accused in the case on bail, this Court had not imposed such conditions upon them is true, the above conditions were taken from the conditions imposed by the Supreme Court of India upon two other accused in the said case i.e. Sangian Pandian Rajkumar and B.R. Chaubey while releasing them on bail. It was specifically observed by this Court that the above conditions were being imposed upon the applicant, by keeping in mind that similar conditions were

imposed by the Supreme Court of India on the said co-accused while releasing them on bail.

7 When this matter appeared on 9th February 2016, a query was made by this court as to whether the conditions imposed on the said accused viz. Rajkumar Pandian and B.R. Chaubey, have been relaxed or modified. The answer to this, was that though the conditions imposed on them have still not been modified or relaxed, it was the applicant who was hit harder by the said conditions than the said co-accused. It was submitted that the said co-accused Rajkumar Pandian and B.R. Chaubey have been reinstated in service and they have been sent on deputation for duties in the State of Maharashtra itself. The learned counsel for the applicant also submitted that the applicant has since retired from his service. The learned counsel for the CBI had then sought time to verify the correctness of this claim.

8 Today, it is conceded before me that the said two co-accused have indeed been reinstated in service, and have been sent on deputation for duties in the State of Maharashtra itself. That the applicant is now no more in service, is also conceded before me.

9 I have carefully considered the matter.

10 In the circumstances, I am inclined to agree with the contention of the learned counsel for the applicant that the case of the present applicant needs to be viewed separately and independently, and cannot be decided on the basis that similar

conditions imposed on the co-accused have not been relaxed.

11 Since the said accused upon whom similar conditions were imposed, have been deputed for duties in State of Maharashtra, the condition 'to stay in Mumbai' and 'not to enter the State of Gujarat' does not operate so harshly against them, as it operates against the present applicant who has already retired from service; and apparently, the said accused do not feel a pressing necessity of getting the said conditions modified/relaxed. It is also a fact, as pointed out by the learned counsel for the applicant, that some of the co-accused who were released on bail by this Court, were not saddled with such harsh conditions. Moreover, the applicant was released on bail after having been in custody for a period of about 8 years. All the accused in the said case are on bail. The trial has not yet commenced.

12 Considering all the relevant aspects of the matter, I am inclined to cancel the condition nos.(iv) and (v) mentioned in the order releasing the applicant on bail, and substitute them by appropriate conditions.

13 The condition nos. (iv) and (v) in the operative part of the order dated 11th September 2014, are cancelled.

14 However, the applicant shall remain present before the trial Court on all the dates of hearing, as may be fixed by the trial Court.

15 The applicant shall report to the CBI office at Gandhi Nagar everyday, except Sundays and Public Holidays, until further orders of this Court. The applicant shall, however, be exempted from reporting to the CBI office, as aforesaid, on the days/dates on which he would be required to remain present before the trial court in connection with this case including the minimum time required for *to and fro* journey, calculation of which should be done in a reasonable and practical manner. The applicant shall claim such exemption by giving the necessary details to the CBI office which may be communicated to trial court by them.

16 Any failure on the part of the applicant to report to the CBI office, as aforesaid, shall forthwith be reported by the concerned Officer of CBI to the trial Court, which shall in case of such a report take such further appropriate action in the matter, as it thinks fit.

17 The other conditions imposed upon the applicant by the order dated 11th September 2014, shall remain unaffected.

18 I am informed that the applicant is also an accused in a case pending before the Sessions Court at Ahmedabad in which also a condition preventing him from entering in the State of Gujarat has been imposed.

19 It is clarified that nothing in this order shall be construed as modifying that order, or its effect.

20 Incidentally, it may be mentioned that attention of this Court was not drawn to the fact of pendency of one more case against the applicant, when the Bail Application filed by him was heard. Anyway, there is no point in wrecking up this aspect of the matter while considering the present application.

21 Application is disposed of accordingly.

(ABHAY M.THIPSAY, J)