

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 340 OF 2016
IN
CRIMINAL WRIT PETITION NO. 2318 OF 2016

Mr. Shrikant R. Salvi. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Sameer Vaidya i/b. Mr. R.D. Siroya, advocate for applicant.

Mrs. A.A. Mane, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 12, 2016

P.C.:

- 1 Not on board. Upon production taken on board.
- 2 Heard the learned Counsel for the applicant and the learned APP for State.
- 3 The application was filed seeking extension of two weeks to furnish surety and in the interregnum, not to take any coercive steps against applicant. This application is filed on 5/8/2016.

4 On 7/7/2016 the matter was heard by the predecessor Bench. The order was passed that while passing the order this Court had taken note of the submissions advanced by the learned Counsel for the applicant that amount of Rs. 87 Lakhs, which was at issue in the proceedings before the trial court was returned to the complainant Shweta Kothari. The solvent surety could not be arranged. It is apparent that the extension of time to furnish solvent surety was not sought. This Court had accepted the statement made by the learned Counsel that the solvent surety of Rs. 5 Lakhs as per the bail order dated 29th March, 2012 and 2/4/2016 will be furnished within 3 weeks. This Court had also considered the submission of the learned APP that the solvent surety was not furnished for almost four years. Despite this, the Hon'ble Bench had accepted the statement of the learned Counsel and had directed the applicant to personally appear before the trial Court and file an application seeking cancellation of the non-bailable warrant. The undertaking was given

that the applicant would personally remain present and seek recall of the non-bailable warrant.

5 Today, once again the prayer is made for extension of time. It is pertinent to note that the applicant had filed solvent sureties on 2/8/2016 without there being solvency certificate. The time had expired on 3rd August, 2016 and according to the learned Counsel, solvency certificates were received on 3/8/2016. In that eventuality, there was no reason to file an application on 2/8/2016 without there being a solvency certificate. The application seeking cancellation of non-bailable bailable warrant or accepting solvent surety or extension of time has not been filed in this petition.

6 The learned Counsel submits that on humanitarian ground, prayer in the petition be considered under Section 482 of the Code of Criminal Procedure, 1973. However, this Court cannot be oblivious of the fact that extension of time was being sought for more than four years. In the earlier round of proceedings also, application seeking

extension of time was rejected by the learned Magistrate. However, report was called after 3 months i.e. on 10/8/2016. It was made to represent that the time is extended up to 10/8/2016. Subsequently, this Court had modified the order after taking instructions from the learned Magistrate. It appears that the only steps taken by the applicant is seeking extension of time on one or the other grounds. It is pertinent to note that at the stage of bail, the application is pending for compliance for more than four years. This would amount to sheer abuse of process of law and the entire criminal proceedings would be protracted. In fact, as on today, it is expected that the criminal proceedings are disposed of as early as possible.

7 The learned Counsel submits that since the whole claim is satisfied, it would not cause any prejudice to the complainant, if time is extended. In the present case, there is no question of considering the prejudice to the complainant, since criminal proceedings are being

protracted by the applicant at the stage of bail itself. Hence, the application being sans merits stands dismissed.

(SMT. SADHANA S. JADHAV,J)