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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.889 OF 2015
IN
CRIMINAL APPLICATION NO.442 OF 2015
WITH
BAIL APPLICATION NO.73 OF 2015

Vicky Ranjeetsingh Oberoi

..Applicant.

Vs.

The State of Maharashtra

..Respondent

Mr. Karman Shaikh i/b O.A. Siddiqui for Applicant.

Ms. A.T. Javeri, APP for State.

CORAM: A.S. GADKARI, J.**DATE : 29th January 2016.****P.C.**

1 The present application is for extension of time for temporary bail granted to the applicant by an order dated 13.7.2015 by the Trial Court. The record discloses that by an order dated 13.7.2015 the applicant was granted temporary bail on medical grounds for a period of three months by imposing certain conditions. The applicant thereafter preferred Criminal Application No.442 of 2015 in this Court for modification of the said order dated 13.7.2015 passed by the Special Judge under NDPS Act. This Court

by its order dated 27.7.2015 has allowed the said application and while modifying the conditions, this Court permitted the applicant to reside at Gurgaon for a period of four weeks. It further appears from the record that the applicant has challenged the said order dated 27.7.2015 passed in Criminal Application No.442 of 2015 before the Supreme Court of India. The Supreme Court by its order dated 29.10.2015 was pleased to extend the said period by way of extension of bail for three weeks and requested the High Court to take up Criminal Application No.889 of 2015 for hearing pending before it.

The record discloses that the said temporary bail granted on the medical grounds was subsequently extended by this Court from time to time. The record further discloses that the applicant is suffering from various ailment and has undergone surgeries for the same. It further appears from the medical report annexed to the application that the applicant was unable to travel and therefore he could not attend the Trial Court on the stipulated dates. That the temporary bail granted to the applicant was thereafter extended on the said count. The applicant has annexed various documents pertaining to his medical treatment which he is taking at Medanta Global Health Pvt. Ltd., Gurgaon, State of Haryana.

2 The applicant is an approver in NDPS Special Case No.63 of

2009 instituted at the instance of the ATS, Mumbai. The presence of the applicant for leading evidence before the Special Court is necessary. As the applicant was granted temporary bail on medical ground, his evidence could not be recorded prior to this. In view of the same, this Court on earlier occasion had directed the learned APP to take instructions on the point whether the Investigating Agency is ready and willing to provide necessary help to the applicant for his travel and attendance before the concerned Court on the scheduled dates. That Assistant Police Inspector Shri Nilesh Kamble through APP has submitted a report dated 28.1.2016 in this Court. In the said report, it is stated that the concerned officer had visited the said hospital and had also verified the physical condition of the applicant. It is further stated that the applicant is able to move on his own. However, the fact that the applicant is suffering from various ailments and has undergone surgeries is not disputed. It is stated in the said report that the Investigating Agency is ready and willing to bring the applicant by Rajadhani Express on the stipulated dates and will provide necessary accommodation to him at the Police Guest House at Mumbai. That the family member/s of the applicant will be able to accompany him throughout the said period for taking his care. The report further states that after recording of the evidence, the Investigating Agency will take the

applicant to a Panel Doctor of J.J. Hospital for his medical check-up.

3 The learned Counsel for the applicant on instructions submitted that the journey through Rajadhani Express may perhaps be tiresome for the applicant as it takes more than sixteen hours. He on instructions further submitted that the applicant will come at his own expenses by aeroplane accompanied by one of his family member on the stipulated dates and will attend the Court proceedings. That as stated in the aforesaid report dated 28.1.2015, the applicant may be provided with accommodation at police Guest-House. That the applicant may be provided police escort after aeroplane lands at Mumbai Airport. He, however, submitted that after taking into consideration the pathetic medical condition, the applicant may be provided with an ambulance and a wheel chair.

4 The learned APP on instructions from the concerned officer who is present in the Court submitted that the Investigating Agency will make arrangement for ambulance and wheel chair for applicant and will also provide with necessary police escort from Airport to police guest-house and from there to the Court. The learned APP on instructions further submitted that the Trial Court has now scheduled the NDPS Special Case No.63 of 2009 for recording evidence of the present applicant (cross-

examination) on 23rd to 25th of February 2016 and therefore it is incumbent on the part of the applicant to reach Mumbai on or before 22nd February 2016. The learned Counsel for the applicant on instructions submitted that the applicant shall come to Mumbai on 22nd February 2016. The timing of his arrival will be intimated in advance to the concerned Investigating Officer or the officers from ATS, Mumbai to make further arrangement.

5 Hence, the following order:-

(i) The applicant shall attend the NDPS Case No.63 of 2009 from 23rd February 2016 to 25th February 2016.

(ii) The applicant shall come to Mumbai on 22nd February 2016. The timing of his arrival shall be intimated to the concerned officer in advance as stated hereinabove.

(iii) The Investigating Agency shall make arrangement of ambulance and wheel chair for the applicant. The applicant shall be provided with police escort for to and fro journey from the Court to the Police guest-house.

(iv) The applicant shall be allowed to leave Mumbai on 26th February 2016. In the event the evidence could not be completed on 25th February 2016, the Trial Court to consider the presence of the applicant on 26th or 27th of February 2016 and may pass appropriate orders accordingly.

(v) It is further made clear that the process of recording of the evidence shall not be postponed or protracted on any ground including seeking adjournment by either of the parties to the said case.

(vi) The temporary bail granted on medical ground shall remain in force for a period of six weeks thereafter from 29th February 2016.

The applicant will be at liberty to file a fresh application for bail on medical grounds before the Trial Court after the aforesaid period comes to an end.

(vii) Criminal Application No.889 of 2015 is allowed in the aforesaid terms.

6 As the Criminal Application No.889 of 2015 is allowed, the learned Counsel for the applicant on instructions seeks leave to withdraw the Bail Application No.73 of 2015 with liberty to file fresh application for bail on medical ground before the Trial Court as stated above.

Leave and liberty granted. The Bail Application No.73 of 2015 is dismissed as withdrawn.

(A.S. GADKARI,J.)