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

**CRIMINAL APPLICATION NO.1341 OF 2016
IN
CRIMINAL APPEAL NO.268 OF 2010**

Niraj Rameshwar Singh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Ashwin R. Rana. for the Applicant.

Ms.A.A.Takalkar, A.P.P for the Respondent-State

PSI - S.V.Parab, L.T.Marg Police Station, Mumbai.

***CORAM : REVATI MOHITE DERE, J.
DATE : 8th DECEMBER, 2016***

P.C. :

1. Heard learned counsel for the parties.
2. By this application the applicant's seeks his enlargement on bail, pending the hearing and final disposal of the aforesaid appeal.
3. The applicant, vide Judgment and Order dated 7th December, 2009, passed by learned 4th Ad-hoc Additional Sessions Judge, Court

Room No.28, Greater Bombay, has been convicted and sentenced as under:-

- for the offence punishable under Sections 452 of the Indian Penal Code to suffer R.I for 3 years and to pay fine of Rs.1,000/- in default to suffer S.I. for 15 days;
- for the offence punishable under Sections 392 of the Indian Penal Code to suffer R.I for 3 years and to pay fine of Rs.1,000/- in default to suffer S.I. for 15 days.

Both the said sentences were directed to run concurrently.

4. Learned Counsel for the applicant states that being aggrieved by the said order of conviction and sentence, the applicant preferred an appeal in this Court, being Criminal Appeal No.268 of 2010 which was admitted by this Court on 2nd July, 2010, however, as none appeared for the applicant, the applicant's bail application was dismissed for want of prosecution on 7th July, 2011. He submitted that the applicant had engaged Advocate Ms.Razia B. Shaikh, in this Court, however, the said advocate failed to remain present for the hearing of the bail application, pursuant to which, his bail application was dismissed for want of prosecution. He

submitted that the applicant hails from Bihar and had moved to Bihar. He submits that the address of the applicant is mentioned in the cause title of the present application. The Address given by the applicant is '*Ward No.7, Raj Compound, Near Hind Cinema Chowk, Ram Nagar, P.S. - Ramnagar, District – West Champaran, State – Bihar, Pin Code – 845103*'. He submitted that the applicant was under a bonafide belief that his Advocate Ms.Razia B. Shaikh would pursue his bail application and appeal and keep him apprised of the same. He submitted that this Court vide order dated 18th March, 2016, was pleased to issue NBW against the applicant in the aforesaid Appeal as none appeared on his behalf. He states that the applicant had moved to Bihar, as his father was in coma for almost 4 years and has been there since then. According to the learned counsel, the applicant's Advocate failed to remain present for the hearing of his bail application, pursuant to which his application was dismissed for want of prosecution and later an NBW was issued in the Appeal, as neither the applicant's Advocate nor the applicant appeared in the appeal. He submitted that the Applicant is ready to abide by any of the conditions which may be imposed and that the applicant be enlarged on bail, pending the hearing and final disposal of his appeal, on stringent conditions.

5. Learned APP submitted that stringent conditions may be imposed on the applicant, while granting bail and that the applicant be directed to give an undertaking to this Court with regard to his true and correct address.

6. Learned Counsel for the applicant makes a statement that he will continue to appear on behalf of the applicant and will not seek his discharge from the said case and that he and the applicant, if required, will appear whenever the aforesaid appeal is listed on the Final Hearing Board. The said statement is accepted.

7. Perused the papers. It appears that as the applicant's Advocate failed to appear, this Court vide order dated 7th July, 2011 was pleased to dismiss the applicant's bail application for want of prosecution. It appears that vide order dated 18th March, 2016, NBW was issued by this Court, in the aforesaid appeal, pursuant to which, the applicant was arrested and is presently lodged in Arthur Road Jail. It appears that the Advocate for the applicant, Ms.Razia B. Shaikh failed to remain present, the applicant's bail

application was dismissed for want of prosecution. None appeared for the applicant, even when the Appeal was called out for final hearing. It appears that the applicant, pending his appeal had moved to Bihar, as his father had met with an accident and was in coma for 4 years. The applicant has given his address as '*Ward No.7, Raj Compound, Near Hind Cinema Chowk, Ram Nagar, P.S. - Ramnagar, District – West Champaran, State – Bihar, Pin Code – 845103*'.

8. Learned counsel for the applicant has also made a statement that he will continue to appear on behalf of the applicant and will not seek his discharge from the said case and will appear whenever the matter is listed on the Final Hearing Board. The learned counsel also made a statement that the applicant will appear, before this Court, whenever so directed.

9. Considering the aforesaid, the application is allowed, and the applicant is enlarged on bail on the following terms and conditions :

ORDER

(i) The Applicant be enlarged on bail on furnishing P.R. Bond in

the sum of Rs.30,000/- with one or two local sureties in the like amount;

ii) The Applicant shall inform his true and correct address / latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the concerned Police Station, as well as the trial Court, in writing.

iii) The Applicant shall attend the Ramnagar Police Station, West Champaran, Bihar, on the 1st and 3rd Saturday of every month between 10.00 a.m. to 12.00 noon, pending the hearing and final disposal of his appeal;

iv) The Ramnagar Police Station, West Champaran, Bihar, to forward a report by fax to the Investigating Officer of L.T.Marg Police Station, Mumbai, every 3 months, whether the applicant is attending the concerned Police Station or not;

v) The Applicant shall undertake to remain present in this Court, as and when required;

vi) An undertaking to the aforesaid clauses (ii), (iii) and (v), shall be filed by the Applicant, in the Registry of the trial Court, within one week after his release;

vii) It is made clear, that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

10. The Application is allowed in the aforesaid terms and is accordingly disposed of.

11. Registry to add Criminal Appeal No.268 of 2010, to the Final Hearing Board of the Appeals, where the accused are on bail, at its appropriate place, in the week commencing from 9th January, 2017.

12. A copy of this order, be placed in the aforesaid Appeal, being Criminal Appeal No.268 of 2010.

13. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.