

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2643 OF 2014

Tejas Velji Lodaya ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.J.Pandey h/f Dilip H. Shukla for the Applicant
Ms.P.P. Shinde, APP, for Respondent – State
Mr.Ganesh Sovani for Intervener

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **APRIL 13, 2016**

P.C.:

1. This application for bail is pending since 2014. the applicant-accused is facing charges under sections 465, 467, 468 471, 420 and 120B of the Indian Penal Code at C.R. No.71 of 2013 with Economic Offences Wing, Unit 1 (original C.R. No.338 of 2013 registered at Mulund police station, Mumbai). During the pendency of this application, an application for temporary bail was taken up before the learned Judge of the Sessions Court, Mumbai. The learned Sessions Judge of the Vacation Court granted temporary bail on the ground that the mother of the applicant-accused was sick. The learned Sessions Judge was pleased to grant temporary bail on 12.5.2015 till 31.8.2015. It was the duty of the accused to surrender on 1.9.2015, however, he did not surrender.

2. The previous orders and the Roznama of this Court disclose that on 2.9.2015, this matter was listed for hearing. On that day, the learned Counsel for the applicant-accused made a statement that the applicant would surrender the next day and therefore, the matter was fixed by this Court on 4.9.2015. On 4.9.2015, the applicant-accused did not surrender in the jail. However, a statement made by the learned Counsel for the applicant, on instructions, that the order dated 2.9.2015 has been challenged by the applicant in the Apex Court and therefore, the matter was fixed on 21.9.2015. Thereafter, the matter appeared time and again. But it was adjourned. Then, the matter appeared before this Court on 18.2.2016. The application for intervention was allowed on 18.2.2016. None appeared for the applicant. Thereafter, the matter appeared in between and on the last date, i.e., 6.4.2016, the matter appeared on Board. However, his Counsel was not present and at the request made by the advocate holding for the the advocate on record for the applicant, the matter is scheduled today under the caption High on Board. However, even today, the advocate on record Mr.Dilip Shukla is not present and one Mr.Pandey, holding for Mr.Shukla, has submitted that Mr.Shukla is not in a position to attend the Court as he is advised to take rest. He seeks time.

3. The learned Counsel appearing for the intervener-Bank, has produced the orders of the Hon'ble Supreme Court. It shows that the Special Leave Petition was not filed till February, 2016, though a statement

was made in September, 2015 before this Court. The order dated 8.2.2016 of the Supreme Court shows that the delay was condoned and thereafter, the matter appeared on 22.2.2016 and it was informed to the Supreme Court as it is mentioned in the order that the Counsel for the petitioner informed that the petitioner was in hospital at that time and was awaiting a Surgery and the relevant documents in this regard were directed to be brought on record and then the matter was fixed on 29.2.2016. The Supreme Court passed the following order:

“Applications for exemption from filing certified copy of the impugned judgment and from filing official translation are allowed.

Permission to file additional documents is granted. Perused the same.

Heard learned senior counsel for the petitioner.

We are not inclined to entertain these special leave petitions. However, it will be open for the petitioner to surrender forthwith. If the petitioner surrenders, as directed above, the learned trial Court will verify the additional documents placed before this Court which pertain to the medical condition of the petitioner and the preparation for surgery to be undertaken. Thereafter, upon due satisfaction of the said facts, the learned trial Court would pass appropriate orders enabling the petitioner to undergo surgery, if required, in an appropriate and fully equipped hospital.

The special leave petitions are disposed of accordingly.”

Thus, the Supreme Court has directed to the petitioner to surrender forthwith.

4. It is a disturbing fact that till today, as per the instructions received by the prosecution, the applicant-accused has not surrendered to the authority of the Court. The order passed by the Sessions Court and also

this Court are completely disrespected. In this view of the matter, the application is kept back at 3 pm so as to enable the advocate appearing for the applicant-accused to obtain instructions.

AT 3 pm:

5. In the second session, the matter was called out. The learned counsel holding for Advocate Mr.Dilip Shukla submitted that Mr.Shukla is not well and therefore he could not come to the Court today. He submitted that the matter be fixed on 18th April, 2016 to enable the counsel to come and argue the matter. On the last date, the counsel was accommodated.

2. This is a very serious matter of flouting the order of the trial Court and so also not observing the statement made before this Court that the accused was to surrender on 3rd September, 2015. On one or the other pretext, the applicant/accused has avoided to surrender. Nothing is produced before this Court today. On the last date, it is noted that the matter is kept today 'High on Board' and some arrangement ought to have been made. I am not inclined to grant one more day to the accused. I dismiss this Bail Application on this ground alone.

3. The Metropolitan Magistrate, 19th Court, Esplanade to take note of this order and is directed to take steps in accordance with law to procure the presence of the accused who has not surrendered to the jail.

4. Registry is directed to send this order to –
- (i) The Metropolitan Magistrate, 19th Court, Esplanade, Mumbai.
 - (ii) The Commissioner of Police, Mumbai, for information.

(MRIDULA BHATKAR, J.)