

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**CRIMINAL APPLICATION NO.657 OF 2017
IN
CRIMINAL APPLICATION NO.1317 OF 2016
IN
CRIMINAL APPLICATION NO.797 OF 2015**

WITH

**CRIMINAL APPLICATION NO.5947 OF 2015
IN
CRIMINAL APPLICATION NO.5129 OF 2015
IN
CRIMINAL APPLICATION NO.797/2015**

ARPIT BANWARILAL GARG = APPLICANT

VERSUS

The State of Maharashtra = RESPONDENT

Mr.Yash Wardhan Tiwari, Advocate for Applicant;
Mr.SD Ghayal, APP for Respondent-State.

CORAM : N.W.SAMBRE, J.

DATE : 13th February, 2017.

PER COURT :

1) Heard. These are the applications for relaxation of the condition, as was ordered by this Court, while ordering release of the present applicant on regular bail; and modification of the order.

2) Few facts, as are necessary for deciding the present applications, are as under, -

3) The present applicant, who is arrayed as an accused in Crime No.85/2014, had approached this Court through Criminal application No.797/2015 filed under Section 439 of the Code of Criminal Procedure (for short, the Code).

4) This court, vide order dated February 23, 2015, directed release of the present applicant in the aforesaid crime registered with Dhule Taluka police station for the offences punishable under Sections 406, 408, 409, 420, 467, 468, 469, 470, 471, 472, 120-B read with 34 of Indian Penal Code, subject to condition that the present applicant shall deposit an amount of Rupees one crore in the court of Chief Judicial Magistrate, Dhule within a period of three months from the date of the order.

5) It is brought to my notice that pursuant

to the aforesaid order dated 23rd February, 2015, the present applicant was released on bail, however, till date, he has not complied with the bail condition of deposit of amount of rupees one crore, of which modification is sought and has jumped the bail.

6) Subsequent thereto, the present applicant had approached this Court by way of Criminal Application No.5129/2015, praying modification of the said condition of deposit of Rupees one crore, which application came to be rejected vide order dated 28th October, 2015 by a reasoned order.

7) While rejecting the prayer for relaxation of the aforesaid condition, the applicant has sought extension from this Court to deposit the amount; and considering the fact that the applicant has sought extension and has shown his readiness to deposit the amount, as was ordered by this Court, this Court by the same

order granted extension of eight weeks to deposit the amount.

8) The applicant, in spite of the extension so granted, did not comply with the said condition, and I am informed, has approached the Apex Court, questioning the said order.

. An oral submission is made that an SLP filed by the present applicant came to be dismissed by the Apex court vide order dated January 22, 2016.

9) As such, this is 4th attempt on the part of the applicant to seek relaxation of the bail condition.

10) The trial Court thereafter proceeded with the matter; framed the charge against the accused persons, who were available before it and since the present applicant was absconding/not surrendered as has not complied with the terms of bail, issued Non-bailable warrant against him, of

which, cancellation is also sought.

11) It is worth to mention here that relaxation of the condition is sought through this application in addition to stay to issuance of NBW on the ground that the condition so incorporated is unreasonable. The applicant is an uneducated person, not proprietor of any of the firms against whom the allegations of misappropriation of the amount of VAT are levelled and the condition incorporated is unrealistic.

12) The learned Counsel for the applicant also relied upon the judgment of Delhi High Court in the matter of G.Vetrivel Sami @ Swami Swami Vs. CBI reported in 2012 (2) JCC 1179 and another judgment of Apex court in the matter of Sandeep Jain Vs National Capital Territory of Delhi Rep.by Secretary, Home Deptt. reported in AIR 2000 SC 114.

13) What could be gathered from the very conduct of the present applicant is, he availed the bail from this Court with an understanding and assurance that he will deposit an amount of Rupees one crore within the stipulated period of three months from the date of order of his release, which condition, till date, is not complied with. In addition, the fact remains that the prayer of the applicant for relaxation of the said condition was rejected and upon further assurance that he will deposit the amount, the protection was extended for a period of eight weeks. In spite of extension of protection, the applicant-accused has not complied with the condition. The applicant filed an SLP before the Apex court and, as stated above, the SLP also came to be dismissed. Thereafter, the applicant has approached this court with a prayer for relaxation of the condition/modification of order of bail and stay to NBW issued against him.

14) In the backdrop of the conduct of the present applicant, as is narrated herein above, in my opinion, the present application for relaxation of condition / modification of the order, is not maintainable particularly when the said prayer on earlier occasion was turned down by this Court and the order of this Court imposing the condition is already upheld by the Apex Court thereby the SLP preferred by the applicant accused is already dismissed.

15) The repeated attempt on the part of the present applicant, by moving various proceedings either before this Court or before the Apex court, is with an intention to kill the time, and such practice adopted only with an intention to prolong the trial and continue to enjoy the liberty without complying with the condition of depositing the amount of rupees one crore as ordered.

16) There is hardly any case of equity to be

considered in favour of the applicant.

17) The conduct and attitude on the part of the present applicant, as is narrated herein above, itself speak about total disregard and disrespect to the court's order and process of law. No case is made out, the Criminal applications stand rejected.

18) In view of the aforesaid order, Criminal application No.5947/2015 stands rejected.

(N.W.SAMBRE, J.)

bdv/