

Anand

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

BAIL APPLICATION NO.238 OF 2017

Jetappa Subhash Rogikar .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.V.V.Purwant, Advocate, for the Applicant
Mr.Y.M.Nakhwa, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 19.06.2017

P.C.

. Heard learned counsel for the parties.

2. Learned counsel for the Applicant submits that the Applicant was arrested in connection with C.R.No.55 of 2014 registered with the Mandrup Police Station, District – Solapur, for the alleged offences punishable under Sections 302 & 498A of the Indian Penal Code. He submits that the Applicant was enlarged on bail vide Order dated 21.08.2014, passed by the learned 1st Ad-hoc Sessions Judge, Solapur, on certain terms & conditions. Learned counsel for the Applicant submits that after the Applicant was enlarged on bail, there were about 20 dates, during the period from 06.10.2014 to 11.03.2016. He submits

that out of the 20 dates before the trial Court, the Applicant appeared before the trial Court on 8 dates and sought exemption on 3 dates. He submits that as the Applicant and his lawyer failed to appear before the learned Judge, the learned Judge was pleased to issue NBW, pursuant to which he was arrested. He states that his bail Application has been rejected by the trial Court. He submits that, as the Applicant was unable to get a job in his village, he had gone to Pune, where he was working as mason and hence, could not remain present on the dates given by the trial Court. Learned counsel for the Applicant has tendered an Affidavit of the Applicant. The same is taken on record and marked as "X" for identification. In the said Affidavit, the Applicant has undertaken to abide by any of the conditions that may be imposed by this Court, whilst granting him bail. He has also undertaken to attend the trial Court on every date of the hearing.

3. Learned APP states that neither the Applicant nor his Advocate was present on four occasions, pursuant to which, the learned Judge was pleased to issue an NBW.

4. Perused the papers. The Applicant was arrested in

connection with C.R.No.55 of 2014 registered with the Mandrup Police Station, District - Solapur, for the alleged offences punishable under Sections 302 & 498A of the Indian Penal Code and was released on bail by the learned Additional Sessions Judge, Solapur, on his executing P.R.Bond of Rs.25,000/- with one or two sureties in the like amount. It appears, that during the period i.e. from 06.10.2014 to 11.03.2016, out of 20 dates, the Applicant attended the Court, only on 8 dates and applied for exemption on three dates through his lawyer. The Applicant has tendered his Affidavit affirmed before the Superintendent of District Prison(Jail), Solapur. In the said Affidavit, the Applicant has undertaken to abide by any of the conditions that may be imposed by this Court, whilst granting him bail. He has also undertaken to attend the trial Court on every date of the hearing.

5. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions:-

O R D E R

(i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs.25,000/-** with one or two sureties in the like amount;

- (ii) The Applicant shall report to the concerned police station on the 1st **Monday of every month** till the conclusion of the trial;
- (iii) The Applicant shall not leave the jurisdiction of Solapur District till the conclusion of trial;
- (iv) The Applicant shall attend the trial Court on every date of the hearing;
- (v) The Applicant shall file an undertaking with regard to Clauses (ii) to (iv) within two weeks of his release in the trial Court;
- (vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

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

7. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)