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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.255 OF 2016**

Mr. Vilas Nilkant Patil

... Applicant

vs.

The State of Maharashtra

... Respondent

Mr. Rohit R. Zunjairao i/b. M/s.Dinesh Tiwari and Associates for the Applicant.

Ms. Vinod Chate, APP for the State.

CORAM : A. K. MENON, J.

DATE : 27th JUNE, 2017

P.C.:

1. The present Criminal Application seeks setting of an order dated 10th February, 2016 and for staying of the operation of the said order to the extent it directed applicant to furnish a demand draft of Rs. 1,00,000/- within three weeks from the date of the order. A copy of the order is annexed at Exhibit -D to the application. Perusal of the said order reveals that the applicant was granted bail by the trial Court on 30th January, 2014 on condition that he would submit a bank guarantee of Rs. 5,00,000/- to the office of the complainant.

2. Vide order dated 10th February, 2016 the trial Court waived the stay condition of providing the Bank guarantee and directed deposit of Rs. 1,00,000/- in the Registry of the trial Court within three weeks without prejudice to the rights and contentions of the accused. On 10th February, 2016 the Court passed the following operative order : -

(i) The condition for furnishing bank guarantee to the tune of Rs. 5 lacs in the office of the respondent no. 2 is hereby waived and the applicant is hereby directed to deposit Rs. 1 lac (rupees one lac) by way of Demand Draft in the Registry of the Trial court within a period of three weeks from today. The said amount shall remain in the Registry of Trial Court and the Trial Court shall pass appropriate order about the same at the time of conclusion of trial.

(ii) The amount so deposited in the Registry of this Court shall be without prejudice to the rights and contentions of the applicant /accused to be raised at the time of trial.

(iii) It is made clear that no further extensions and/or modification of the condition will be entertained by this Court.

(iv) The application is allowed in the aforesaid terms.

3. Thus effectively, the Court granted further relief by reducing the burden on the applicant. The order granting bail was continued to remain and operative on deposit of Rs. 1,00,000/-. The learned Counsel for the applicant states that he is entitled to further relief in this application setting aside the order to deposit Rs.1,00,000/- in the registry of the trial court. He thus seeks modification of the order on which bail was granted. Today, the Advocate for the applicant seeks an adjournment. On 12th June, 2017 this Court recorded that the matter was adjourned on several occasions since April, 2016 and often at the instance of the applicant. There is no reason to adjourn this any further. Although the applicant's Advocate seeks further time, the application for adjournment is rejected.

4. Having heard the Advocates for the parties and upon perusing the record it is seen that the applicant has taken advantage of a conditional order but has omitted to comply with the conditions. Hence in my view the interim protection cannot be continued due to breach of the condition of deposit. This is clearly not an application that can be entertained.

5. Meanwhile, learned APP pointed out that in the present application the C.R. No. is incorrectly mentioned as C.R. No. 1358 of 2013 whereas the correct C.R. No. 355 of 2013 as registered with Naupada Police Station, Thane.

6. In the circumstances, I pass the following order :

- (i) The application is dismissed.
- (ii) Since the applicant has not complied with the order of the trial Court till date. the Magistrate's Court shall proceed to execute the order without further orders from this Court.

(A. K. MENON, J.)