

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.471 OF 2016

IN

CRIMINAL APPEAL NO.456 OF 2007

RAMPRASAD @ BHAIKAV PRASAD YADAV)...APPLICANT

V/s.

UNION OF INDIA AND ANR.

)...RESPONDENTS

Ms.Zehra Charasia i/b. MrAyaz Khan, Advocate for the Applicant.

Ms.Yasmin Kalpitia a/w. Ms.Ankeet Appanna, Advocate for Respondent N.1.

Mr.S.V.Gavand, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 29th MARCH 2017.

P.C. :

1 This is an application by applicant / accused for relaxation of condition to attend the office of Narcotic Cell Bureau (NCB), Mumbai, once in a month, imposed on him vide order dated 14th October 2008 in Criminal Application No.1011 of 2008 while releasing him on bail during pendency of the appeal filed by

him challenging his conviction under Sections 8(c), 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act), recorded by the learned trial court and consequent sentence imposed upon him.

2 Heard the learned advocate appearing for the applicant / accused. He argued that the applicant / accused is presently 68 years old and is suffering from insomnia, depression, joint pain and abdominal complications due to consumption of tobacco. She further argued that the applicant / accused who was regular in attending the office of NCB, Mumbai, could not attend the said office from the end of the year 2015 because of his health problems and in support of this contention, the learned advocate appearing for the applicant / accused drew my attention to the certificate issued by Dr.Manish Prakash of Varanasi.

3 The learned advocate appearing for respondent no.1 NCB opposed the application by contending that Officer from the Lucknow Unit of the NCB had been to Varanasi for checking

truthfulness of the medical certificate annexed with the application and that Officer has reported that Dr.Manish Prakash was not traceable at the given address and his clinic does not exist at the given address. It is reported that the said doctor was practicing in the area around five to six years back. With this, the learned advocate appearing for the respondent no.1 argued that fake certificate is produced on record by the applicant / accused. She further argued that the applicant / accused is attending Office of NCB, Mumbai, and therefore, he should continue to attend that office.

4 It is, thus, clear that, even as per the submission of the learned advocate appearing for respondent no.1 NCB, the applicant / accused is attending the Office of the NCB, Mumbai. Report of the Officer of the NCB itself shows age of the applicant / accused as 68 years. That is also seen from the record of the trial court. It is not in dispute that the Office of the Superintendent, NCB, is also located at Lucknow. Therefore, interest of justice would be served by directing the applicant / accused, who is an

old man of 68 years of age, to attend the office of the Superintendent, NCB, Lucknow, once in each month, instead of attending the Office of the NCB, Mumbai, once in a month.

Therefore the order :

- i) The application is allowed.
- ii) Condition of attendance imposed by order dated 14th October 2008 in Criminal Application No.1011 of 2008 is modified by directing the applicant / accused to report to Office of NCB, Lucknow, once in each month, instead of reporting to the Office of the NCB, Mumbai.
- iii) The application is accordingly disposed of.

(A. M. BADAR, J.)