

Anand

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.931 OF 2017

Balasaheb Anand Choudhary

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr.H.V.Kode i/b. Mr.S.M.Suryawanshi, Advocate, for the
Applicant

Mr.Prashant Jadhav, APP, for the Respondent – State

Mr.Rameshchandra Bafna, Complainant-in-person present

CORAM : REVATI MOHITE DERE, J.

DATE : 04.05.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant, who is 93 years of age seeks his enlargement on bail in connection with C.R.No.9044 of 2016 registered with the Sarkarwada Police Station, Nasik, for the alleged offences punishable under Sections 199, 418, 419, 420, 406 & 500 of the Indian Penal Code.

3. Learned counsel for the Applicant submits that the Applicant is aged 93 years. The said statement is disputed both by the learned APP and the Complainant, who is present in Court.

They both state that the Applicant is 83 years old and not 93. Learned counsel for the Applicant on the last date had submitted that the Applicant is ready to deposit a sum of Rs.10,00,000/- in instalments of Rs.5,00,000/- each, in the Registry of this Court, without prejudice to his rights & contentions. He states that the Applicant, has deposited a Demand Draft of Rs.5,00,000/- of SBI, Nasik bearing No.270053 drawn in favour of "The Registrar Appellate Side Bombay High Court" dated 04.05.2017, in the Registry today. He submits that the balance amount of Rs.5,00,000/- will be deposited by the Applicant in the trial Court on or before 12.05.2017. The said statement is also accepted. The Applicant's Affidavit-cum-undertaking is taken on record and marked as "X" for identification.

4. Learned APP and the Complainant, who appears in-person opposes the Application. They submit that the Applicant had impersonated himself as an Advocate and had taken a sum of Rs.22,50,000/- from the Complainant. They also dispute the age of the Applicant, that it is 93. They submit that the trial be expedited considering the ages of both the Applicant as well as the Complainant.

5. Perused the papers.

6. It appears that the Applicant had impersonated himself as an Advocate and had taken money from the Complainant to the tune of Rs.22,50,000/- during the period 2009 to 2014. It appears that one more C.R. has been filed against the Applicant. The Complainant informs that the Bar Council of India has also observed that the Applicant was not enrolled as an Advocate and hence was not competent to practice as an Advocate. Learned counsel for the Applicant has tendered an undertaking dated 29.04.2017, duly affirmed before the Superintendent, Nasik Central Prison. In the said undertaking, the Applicant has undertaken to deposit a sum of Rs.5,00,000/- within one week from the date of order and a further sum of Rs.5,00,000/- within one week thereafter. The Applicant has also undertaken to attend the trial Court on every date and if, he is unable to attend, he has undertaken to authorize his legal representative i. e. Advocate to attend the Court and proceed with the case. The Applicant has also undertaken not to leave Nasik city without the leave of the Court during the period, the trial is in progress and in Clause (4) of the said undertaking, the Applicant has stated that if there is any

breach on his part to the aforesaid Clauses (1) to (3), bail granted to him shall be cancelled.

7. Without going into the merits of the case, only keeping in mind the ages of both, the Applicant and the Complainant and the undertaking given by the Applicant, trial of the Applicant is expedited and the Application is allowed 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.50,000/- with one or more sureties in the like amount;

(ii) The Principal District Judge, Nasik to forthwith assign the said case, being R.C.C.No.1666 of 2016 to any Court. The said Court is directed to complete the trial as expeditiously as possible and in any event within three months from the date of receipt of the said order. The said case will be conducted preferably on a day to day basis;

(iii) The Complainant- Rameshchandra Bafna is permitted to withdraw the said amount of Rs.5,00,000/- which is deposited by the Applicant in this Court today, after furnishing proof of his identity. The Complainant also accepts that the said amount

received by him, will be subject to further orders that will be passed by the trial Court, at the conclusion of trial;

(iv) The Applicant shall deposit the balance sum of Rs.5,00,000/- by D.D. in the Registry of the trial Court on or before 12.05.2017. The trial Court shall also pass appropriate orders on the said amount i. e. Rs.5,00,000/- which will be deposited by the Applicant as aforesaid, at the conclusion of the trial. Thus, the trial Court shall pass appropriate orders on the entire amount of Rs.10,00,000/- deposited by the Applicant at the conclusion of the trial (which includes Rs.5,00,000/- which the Complainant is permitted to withdraw);

(v) If the amount of Rs.5,00,000/- is not deposited within the stipulated period and if there is a breach of the undertaking, the prosecution and the Complainant are at liberty to file an Application seeking cancellation of the Applicant's bail;

(vi) The Applicant shall abide by the undertaking given by him. Learned APP to place on record a copy of the undertaking tendered by the Applicant in this proceeding, before the trial Court;

(vii) The applicant to cooperate with the conduct of the trial.

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

9. 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.)