

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.476 OF 2017
IN
ANTICIPATORY BAIL APPLICATION NO.140 OF 2013

Vijay Vira	Applicant
versus	
The State of Maharashtra	Respondent

Mr.S.R.Gaud for Applicant.
Mr.A.R.Kapadnis, APP, for State.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 13th July 2017

PC :

1. This is an application seeking withdrawal of Rs.28 lakhs which is deposited before 47th Court of Metropolitan Magistrate, at Esplanade, Mumbai in CR No.117 of 2012. The charge sheet has been filed and the case has been numbered as CC No.1030/PW/2014 before the said Court.

2. The Applicant was granted interim anticipatory bail vide order dated 5th March 2013. The said order was passed in view of statement made by learned advocate for Applicant, on instructions of the Applicant who was present in the Court, that he would deposit Rs.28 lakhs within a period of three weeks, without prejudice to his rights and defenses. After deposit of Rs.28 lakhs, by order dated 11th June 2013, the Applicant was granted anticipatory bail.

3. The said amount came to be deposited in the bank in the form of fixed deposit. The Applicant has preferred this application for withdrawal of the said amount on the ground that wife of the Applicant is seriously ill. She requires heart transplant. In view of the said, the Applicant requires huge finances for the said purpose. He needs about Rs.25 lakh for the heart transplant treatment. The wife of the Applicant is undergoing the treatment in Fortis Hospital. He placed on record medical documents in support of his submission that his wife requires heart transplant.

4. Learned APP strongly opposed the application. It is submitted that the Applicant has committed serious crime and only on the basis of the statement made by the Applicant and amount being deposited, that anticipatory bail was granted. It is further submitted that trial can be expedited considering the circumstances.

5. Learned advocate for Applicant submitted that if he is allowed to withdraw the said amount, after utilizing the said amount for the treatment, the Applicant would re-deposit the said amount before recording of statement of Applicant under Section 313 of Code of Criminal Procedure, 1973. He is willing to file an undertaking in this regard.

6. Perused the contents of the application. Heard both sides. Also perused the medical certificate. Since the amount was deposited in view of the statement made by the Applicant while granting anticipatory bail, it is difficult to grant any relief of withdrawal of the said amount. Although the Court has all sympathy

for the Applicant on account of ailment of his wife, but it would not be possible to grant such relief to the Applicant. At the most, trial can be expedited. Hence, I pass following order :

ORDER

- (i) Criminal Application No.476 of 2017 is rejected;
- (ii) Trial in C.C. No.1030/PW/2014 pending before 47th Court of Metropolitan Magistrate, at Esplanade, Mumbai is expedited;
- (iii) The Trial Court is directed to complete the trial within six months from the date of receipt of copy of this order.

(PRAKASH D. NAIK, J.)

MST