

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 639 OF 2017

Amir Mehboob Tamboli

..Appellant.

Versus

State of Maharashtra.

..Respondent.

Mr. Gourav Parkar for the Appellant.

Mr. A. R. Kapadnis, APP for the State.

Coram : Ranjit More &
Smt. S. S. Jadhav, JJ.

Date : **September 26, 2017.**

P. C. :

1. Heard the learned Counsel for the Appellant and the learned APP for the State. By this appeal, the Appellant is seeking relaxation in the conditions of regular bail granted to him by the learned Sessions Judge, Solapur vide its order dated 16th January 2016 in Criminal Bail Application No.678 of 2015 as modified by the subsequent order dated 5th November 2016 passed in Criminal Miscellaneous Application No. 1176 of 2016.

2. The Appellant along with other came to be arrested in CR No. 222 of 2015 registered with Sadar Bazar Police Station, Solapur for the offence punishable under sections 420, 467, 468, 471 read with 34 of the Indian Penal Code, 1860 and sections 13(1)(c) of the Prevention of Corruption Act, 1988 and sections 3(2)(5) and 3(2)(7) of the SC and ST (Prevention of Atrocities) Act, 1989. The Appellant preferred bail application bearing No.678 of 2015. The learned Sessions Judge granted bail by imposing certain conditions by the order dated 16th January 2016. The operative part of the said order

reads thus :

- "1. Application is hereby allowed.
2. Applicant Amir Maheboob Tamboli, be released on PR of Rs.1,00,000/- and 2 solvent sureties of Rs.50,000/- each, on following conditions :
 - (i) Applicant or his relative to deposit an amount of Rs.1,71,88,690/- (Rs. One crore, Seventy one lakhs, Eighty Eight Thousand, Six Hundred, Ninety only) in the Court of Chief Judicial Magistrate, Solapur, within one month from today which shall be a condition precedent for releasing the Applicant on bail. The said amount be invested in a fixed deposit in any Nationalised Bank initially for one year, to be renewed thereafter from time to time.
 - (ii)
 - (iii)"

3. The Appellant could not deposit an amount of Rs.1,71,88,690/-, which was condition precedent to release the Appellant on bail. The Appellant therefore filed another application being Criminal Misc. Application No. 1176 of 2016 before the learned Sessions Judge, Solapur for relaxation of the conditions of bail. The learned Sessions Judge disposed of this application by its order dated 5th November 2016 and reduced the amount of Rs.1,71,88,690/- to Rs.50,00,000/-. The operative part of the said order reads thus :

- "1. Application is hereby partly allowed.
2. Condition No. 2(i) in the bail order passed in Criminal Bail Application No. 678/2015, dated 16/1/16 by this Court is hereby modified as follows :

"Applicant or his relative to deposit the amount of Rs.50,00,000/- (Rs. Fifty Lakhs only) in the Court of Chief Judicial Magistrate, Solapur, within 15 days

from the date of this order, which shall be a condition precedent for releasing the Applicant on bail. The said amount be invested in fixed deposit in any Nationalised bank initially for one year; and be renewed thereafter from time to time."

4. Though first order was passed on 16th January 2016 and second order is passed on 5th November 2016, the Appellant could not deposit the amount of Rs.50 lakhs and therefore could not be released on bail. In these circumstances, the Appellant has approached this Court for relaxation in the conditions of bail.

5. The appellant's father has placed on record affidavit dated 18th September 2017. In paragraph 2 of the affidavit, he has given details of 10 properties. Out of these 10 properties, 6 properties are belonging to the Appellant and remaining 4 properties belong to appellant's father. The learned Counsel for the Appellant made a statement and similar statement is made in the affidavit that these properties have already been attached by the investigating agency in the subject CR. This statement is not disputed by the learned APP. The appellant's father has also given an undertaking in respect of the properties owned by him that he will not create third party interests in those properties. He has also stated that he will not claim any right title and interest in the said properties.

6. The learned Counsel for the Appellant makes a statement that the value of the properties mentioned hereinabove, which belong to the Appellant and his father, is more than Rs. 2 crore. This statement is disputed by the learned APP and he submitted that these properties are worth Rs.80 lakhs as per the ready reckoner.

7. In any case, the attached properties belonging to the Appellant and his father are worth more than Rs.50 lakhs. Since the said properties have already been attached and his father has given an undertaking which is recorded hereinabove, coupled with the fact that the Appellant is not able to deposit the amount of Rs. 50 lakhs as a condition precedent for releasing on bail, we are inclined to revoke the said condition. The appeal is, therefore, disposed of by passing following order :

-: O R D E R:-

The condition that Appellant shall deposit Rs.50 lakhs as condition precedent for his release on bail is relaxed. So far as other conditions are concerned, we are not interfering with them and the Appellant shall be bound by them.

[Smt. S. S. JADHAV, J.]

[RANJIT MORE, J.]