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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL APPLICATION NO.440 OF 2017

Shiva Laxman Pasare
Versus
The State of Maharashtra

...Applicant

...Respondent

Mr.P.G.Pandey, for the Applicant.

Mr.Ajay Patil, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 23rd AUGUST, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks modification/relaxation of the condition imposed by the learned Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai, vide order dated 24th July, 2017, by which, the applicant was enlarged on bail, on depositing an amount of Rs.12,03,382/-.

3. Learned Counsel for the applicant submits that the applicant had never volunteered to deposit the said amount of Rs.12,03,382/-. He submitted that the learned Magistrate could not have imposed such an onerous and unreasonable condition, directing the applicant to deposit an amount of Rs.12,03,382/- whilst granting bail. He relied on the Judgment of the Apex Court in the case of ***Sandeep Jain v/s National Capital Territory of Delhi Rep. By Secretary, Home Department***¹.

4. Learned APP does not dispute the fact, that the applicant had never volunteered to deposit the said amount of Rs.12,03,382/-.

5. Perused the papers. The applicant was enlarged on bail by the learned Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai, vide order dated 21st July, 2017. Para 9, Clause – 2 of the said order reads thus:-

“9.

2. The applicant Shri Shiva Laxman Pasare be released on P.B. of Rs.2,00,000/- (Rs.Two Lakhs) with solvent

¹ 2000 AIR (SC) 714

surety of like amount in addition to cash security of Rs.1,00,000/- (Rs.One Lakh) and on depositing the amount of 1,14,31,572/- (Rs.One Crore Fourteen lakhs Thirty One Thousand Five Hundred Seventy-Two).”

6. The said order was subsequently modified by the learned Magistrate, vide order dated 24th July, 2017 and the amount was modified from 1,14,31,572/- to Rs.12,03,382/-. It appears that the applicant had never volunteered to deposit even the said amount of Rs.12,03,382/-. The said amount directed to be deposited was towards the liability of the applicant, in the said case. The applicant is not in a position to pay the amount. The said condition is an onerous and unreasonable condition and as such ought to be relaxed.

7. Accordingly, the application is allowed and the condition imposed by the learned Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai, vide order dated 24th July, 2017, directing the applicant to deposit an amount of Rs.12,03,382/- stands relaxed and modified. The applicant need not now deposit the said amount. Rest of the

conditions remain as it is.

8. The Application is allowed and disposed of in above terms.
9. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)