

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

CRIMINAL APPLICATION NO.516 OF 2016

Chetan Nagindas Desai

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Nitin Sejpal for the applicant.

Mr. Amit Palkar, APP for the respondent - State.

CORAM : PRAKASH D. NAIK, J.

DATE : 14 JULY, 2017

P.C. :

1. The applicant was implicated as accused in C.R. No.81 of 2013 investigated by EOW for offence under section 465, 467, 468, 471 420 IPC read with 120B IPC.

2. The investigation was completed and chargesheet is filed. The proceedings are pending in Court of Additional Chief Metropolitan Magistrate, 19th Esplanade, Mumbai vide CC No.456/PW/2014.

3. The applicant was released on bail vide order dated 31st January, 2015, he was released on bail on executing PB and SB of Rs.5,00,000/- and to deposit cash of Rs.5,00,000/- in the trial

Court till the conclusion of trial. The applicant was however permitted to deposit cash security in lieu of surety for a period of one month. He was also directed to surrender his passport, if any, to the investigating officer.

4. Learned advocate for the applicant submits that the passport as directed by Court while granting bail has already been surrendered to the investigating officer. The applicant furnished cash security in the sum of Rs.5 lakhs. However, the applicant could not furnish for PB and SB of Rs.5 lakhs as directed by the Court in addition of depositing of cash security.

5. The applicant, thereafter, preferred an application before the trial court for modification of bail order, the order was modified and he was given opportunity to pay the cash security amount in two installment of Rs.2,50,000/- each. It is submitted that the applicant has deposited an amount of Rs.2,50,000/- which was also deposited in cash before the trial Court as per directions of the said Court. The applicant however, could not furnish the surety as directed in the order granting bail. The applicant had preferred an application before this Court bearing Criminal Application no.769 of 2016. The said application was disposed of by order dated 20th July, 2016 and the applicant was permitted to move an application before the trial Court. In pursuant to that the applicant had preferred an application before the trial Court which has been rejected on 4th August, 2016.

6. Thereafter, the present application has been preferred before this Court. It is submitted that the applicant is not in position to furnish surety against the amount in the sum of Rs.5 lakhs. Learned advocate for the applicant however submits that he is willing to furnish surety in the sum of Rs.25,000/- in addition to cash security which is already executed by the applicant before the trial Court.

7. Learned APP submits that the condition was imposed by the trial Court while granting bail taking into consideration the role played by the applicant in the crime and therefore the applicant was directed to furnish the cash security of heavy amount.

8. Perused the documents. Order dated 31st January, 2015 stipulates that the applicant should furnish the cash security of Rs.5 lakhs in addition to surety. It is also mentioned that the applicant shall surrender his passport. It is submitted by the counsel for the applicant that the applicant has deposited an amount of Rs.7,50,000/- before the trial Court.

9. In view of the aforesaid circumstances, the applicant can be directed to furnish the PB & SB Bonds in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only.) in addition to cash surety of Rs.7,50,000/- which has been already deposited by applicant before trial Court.

:: ORDER ::

- (i) Order dated 31st January, 2015 passed by the Additional Chief Metropolitan Magistrate, 19th Esplanade, Mumbai is modified by directing that the applicant may be released on bail on executing PB and SB of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or two sureties in the like amount, in addition to deposit of cash of Rs.7,50,000/- which is already deposited by the applicant before the trial Court.
- (ii) Surety should be furnished within one month from today.
- (iii) The other condition will remain intact.
- (iv) Application stands disposed off.

[PRAKASH D. NAIK, J.]