

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 463 OF 2017**

Guru Security Force Pvt. Ltd. & Ors.	...Applicants
Versus	
Central Bureau of Investigation & Anr.	...Respondents

Ms. Rama Subramanian for the Applicants

Ms. Rebecca Gonsalves for the Respondent No.1-CBI

Mr. R. M. Pethe, A.P.P for the Respondent No.2-State

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 31st AUGUST, 2017

P.C. :

1. By this application, the applicants are seeking recall of the said order dated 28th July, 2017, inasmuch as, it directs the applicants to deposit 5% of the alleged fraud amount.

2. Learned Counsel for the applicants submits that the condition imposed by the learned Magistrate whilst enlarging the applicants on bail, is onerous and could not have been imposed.

3. Learned Spl. P.P. states that in the application filed by the applicants before the learned Metropolitan Magistrate, at no point of time, the said grievance was raised i.e. the condition imposed is an onerous condition and instead, the prayer was for granting time to deposit the amount. She submitted that as the said application seeking extension of time, was rejected, the applicants approached the Sessions Court. It appears that the prayer in the Sessions Court was to set-aside the condition imposed in the bail order dated 28th July, 2017 directing each of them to deposit 5% of the alleged fraud. The learned Special Judge observed in para 8 of the said order as follows :

“8. It further appears that the applicants/accused have filed application for granting 8 weeks time to deposit 5% amount as the banking hours are over and it will not be possible to withdraw the ammount. But the Ld. A.C.M.M. rejected the same. Considering the fact that it was not possible for the applicants to carry such huge amount while attending the court, I think it proper to grnt 8 weeks time to deposit 5% amount as ordered by the Ld. Addl. Chief Metropolitan Magistrate.....”

Accordingly, the learned Special Judge granted 8 weeks time to deposit the amount of 5%.

4. Admittedly, the application filed by the applicants before the Court of the Metropolitan Magistrate, was not for recall of the order directing the accused to deposit 5% of the outstanding dues but was for extension of time to deposit the balance amount. Infact, the applicants in the said application, had stated that they had deposited an amount of Rs. 3 lakhs and had sought extension of time by 8 weeks.

5. In view of the aforesaid, learned Counsel for the applicants seeks leave to withdraw the application with liberty to file an appropriate application before the learned Metropolitan Magistrate for recalling the order dated 28th July, 2017, inasmuch as, it directs the applicants to deposit 5% of the alleged fraud amount.

6. Application is disposed of as withdrawn with liberty as prayed. If such an application is filed within one week from today, the learned Magistrate shall decide the same as expeditiously as possible and in any event, before 20th September, 2017.

7. Application is accordingly disposed of.

8. It is made clear that this application has not been considered on merits and the learned Judge shall consider the same on its own merits and uninfluenced by the withdrawal of this application.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.