IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 704 OF 2016

Mohd. Akmal Imtiyaz Khan @ Raju. ... Applicant.
Versus
The State of Maharashtra & anr. ... Respondents.

WITH

CRIMINAL APPLICATION NO. 1026 OF 2016
IN
CRIMINAL APPLICATION NO. 704 OF 2016

Torrent Power Ltd. … Intervenor.

In the matter between

Mohd. Akmal Imtiyaz Khan @ Raju. ... Applicant.
Versus
The State of Maharashtra & anr. ... Respondents.

Mr. Dinesh Tiwari a/w. Mr. Mikhail Dey i/b. Dinesh Tiwari & Associates, advocate for Applicant.

Mr. Niteen Pradhan i/b. Ms. Shubhada Khot, advocate for intervenor.

Mr. M.G. Patil, APP for State.

CORAM : SMT. SADHANA S. JADHAV, J
DATE : MARCH 2, 2017

P.C.:

1 The applicant herein is arrested on 2/8/2016 in Crime No. 4235/2015 for having committed offence punishable under section 135 of the Indian Electricity Act, 2003. The applicant was granted bail by the Special Court. The applicant could not be actually enlarged on bail since he could not fulfill the bail conditions.

2 The applicant was enlarged on bail by order dated 12/8/2016 on the following conditions:

> "(a) The applicant/accused shall be released on furnishing surety as above and only after payment of half of the amount of the theft of electricity involved in the offence, in the office of Toronto Power Company.
>
> (b) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

(c) The applicant shall not tamper with the prosecution witnesses and be of good behaviour and shall not try to communicate with the complainant or his relatives.

(d) The applicant shall not leave India without the previous permission of this Court."

3 Learned Counsel for the applicant submits that the conditions imposed are so stringent that it almost amounts to denial of bail. He therefore, seeks relaxation of the condition. According to the learned Counsel, it would not be possible for the applicant, despite the best of his efforts to deposit 50% of the amount and therefore, prays that the conditions be relaxed. The applicant had agreed to deposit 25% of the assessment amount. The applicant herein has filed an affidavit/undertaking to that effect in the present case. Learned Counsel submits that despite having granted bail, the applicant is languishing in jail and therefore, has filed an affidavit contending therein that he would deposit 25% of the assessment amount.

Affidavit/undertaking is taken on record and marked as article X for the purpose of identification.

4 Learned Counsel for the applicant has filed an undertaking that he would deposit the amount in this court since the assessment is subjected to adjudication.

5 The learned Counsel appearing for the respondent No. 2 submits that it is incumbent upon the Special Court to consider mandatory provision under section 154 of the Electricity Act and has rightly determined the civil liability and therefore, the order is justified. Learned Counsel appearing for the intervenor submits that the amount be directed to be deposited with the office of the intervenor i.e. Torrent Power Ltd..

6 Since the applicant has been enlarged on bail by the Special Court, this Court is inclined to modify the bail condition 2(a) on the basis of the affidavit/undertaking given by the applicant. The

applicant shall deposit an amount to the tune of 25% of the assessment amount in the office of the intervenor in the matter within 6 weeks from the date of his release.

7 Hence, following order is passed :

ORDER

(i) The application is allowed.

(ii) Condition No. 2(a) is modified. The applicant shall deposit an amount to the tune of 25% of the assessment amount in the office of the respondent No. 2 within 6 weeks from the date of his release.

(iii) The other conditions to remain as it is.

8 The application is disposed of accordingly.

9 Intervention application is heard, allowed and disposed of accordingly.

(**SMT. SADHANA S. JADHAV, J)**