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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 266 OF 2018
IN
CRIMINAL APPEAL NO. 648 OF 2016**

Farhan Abdul Malik Khot	... Petitioner
<i>Versus</i>	
The State of Maharashtra	... Respondent

Mr. Aabad Ponda, i/b Mr. Ashish Raghuvanshi for the Applicant.
Ms. Rohini Salian, Special Public Prosecutor with Mr. J.P. Yagnik,
APP for Respondent – State.

**CORAM: A.S. OKA AND
 RIYAZ I. CHAGLA, JJ.
DATED: 11TH APRIL 2018.**

PC:-

1. As this application could not be heard by regular bench presided over by Hon'ble Shri Justice S.C. Dharmadhikari, as per the general standing order passed by Hon'ble the Acting Chief Justice, this application will have to be heard by this bench. As far as the prayer (a) is concerned, as this bench has not been assigned Criminal Appeals for final hearing, the said prayer will have to be made before the appropriate bench after the summer vacation.

2. Application for grant of bail pending appeal was made by the Applicant which was rejected by the order dated 21st October 2016 by this Court. Though the Apex Court did not interfere with

the said order as is clear from the order dated 15th September 2017, it appears that for a period of about six months, the Applicant was enlarged on temporary bail. The order dated 15th September 2017 of the Apex Court shows that temporary bail was granted on the ground of poor health condition of the Applicant's mother. While rejecting the prayer for regular bail by the same order, the Apex Court extended the interim bail by a period of three months subject to such conditions as may be imposed by the Trial Court after hearing the learned Public Prosecutor.

3. Today, the learned counsel appearing for the Applicant seeks temporary bail on two grounds. The first is that the Applicant's mother has expired on 9th April 2018 and the second ground is birth of son of the Applicant on 1st April 2018. The learned Special Public Prosecutor has not disputed the correctness of these two factual aspects.

4. Though, prayer (b) cannot be granted as the Apex Court has declined to grant regular bail and as of today there is no case made out of any drastic change in circumstances, the prayer for temporary bail will have to be considered especially when the learned Public Prosecutor on instructions states that it is not the case of the State that the Applicant has misused the facility of interim bail granted by the Apex Court.

5. Considering the two factual events which are pointed out by the learned counsel appearing for the Applicant and considering copies of the death certificate and birth certificate produced by the learned counsel appearing for the Applicant in form of a compilation which is taken on record and marked "C1" for identification, we propose to grant temporary bail to the Applicant for three weeks.

6. Hence we pass following order:

a) Prayers (a) and (b) are rejected.

b) However, it will be open for the Applicant to make a fresh application in terms of prayer clause (a) after the summer vacation of 2018.

c) The Applicant shall be enlarged on temporary bail for a period of three weeks from the date of release on the same terms and conditions which were fixed by the Trial Court in terms of paragraph 7 of the order of the Apex Court dated 15th September 2017 in Criminal Appeal No (S) 1666 of 2017 subject to furnishing fresh bail bonds.

d) Accordingly, application is disposed of.

(RIYAZ I. CHAGLA J.)

(A.S. OKA, J)