

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.488 OF 2018

IN

CRIMINAL APPEAL NO.1066 OF 2015

Imran Moula Kalawant ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

.....

Ms.Nasreen S.K.Ayubi, Advocate for the Applicant.

Mr.S.V.Gavand, Advocate for the Respondent.

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CORAM : A.M.BADAR J.

DATED : 3rd APRIL 2018.

P.C. :

1 This second application for temporary bail for thirty days moved by the appellant/accused on the ground of surgery of spine of his ailing mother, who is 70 years of age.

2 The applicant/accused is convicted of the offences punishable under Section 376(2)(f) of the Indian Penal Code as well as under Section 67 of the Information Technology Act and sentenced to suffer rigorous imprisonment for thirteen years apart

from payment of fine of Rs.20,000/- and default sentence of one year. The sentences imposed on him are directed to run concurrently.

3 Heard the learned Advocate appearing for the applicant/accused. She submitted that age old mother of the applicant is ailing and is requiring spinal surgery. There is nobody to look after her and to take care of the surgical operation and post surgical care.

4 The learned Additional Public Prosecutor opposed the application by contending that once the applicant was enlarged on bail for the very same purpose and, therefore, he is not again entitled to be released on bail.

5 I have carefully considered the rival submissions.

6 Mehrajbi Moula Kalawant – mother of the present applicant is suffering from Chronic P.I.D. L3, L4 and L5. She has been advised to undergo Laminectomy Discectomy by Dr.M.V.Phadke of Kolhapur.

7 It is seen that there is no male member in the family. Mother of the present applicant is 70 years old. The applicant is having two sisters out of which one is handicapped.

8 The applicant by now has already undergone sentence of more than eight years. It is also seen that the applicant is not entitled for furlough or parole because of his conviction under Section 376(2)(f) of the Indian Penal Code.

9 On earlier occasion, while deciding Criminal Bail Application No.1732 of 2017, this Court has considered the police report whereby it is pointed out that mother of the present applicant, who is 70 years old, is advised to undergo spinal surgery and she is being taken care of by her two daughters out of which her daughter named Farida is handicapped woman and there is no male member in the family.

10 It is seen that when the applicant was firstly released on temporary bail, mother could not be operated and, therefore, he has surrendered himself. Now, it is seen that spinal surgery of mother of the applicant is scheduled at the Hospital of Mr.M.V.Phalke of Kolhapur. As there is no male member in the family of the present applicant, he deserves to be released on bail for taking pre as well as post-operation care of his mother. Hence, the Order :

ORDER

- (i) For the period of thirty days from his release, the applicant/accused be released on bail on his executing personal bond in the sum of Rs.15,000/- and on furnishing surety in the like amount.

- (ii) On expiry of thirty days from his release from the prison, the applicant/accused should surrender himself before the jail authority.
- (iii) The applicant/accused during the period of his release on bail should attend the jurisdictional Police Station on every Sunday in between 10.00 a.m. to 11.a.m. and he should not contact the prosecutrix or any of the prosecution witness in any manner.
- (iv) The application is accordingly disposed of.

(A.M.BADAR J.)