

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 499 OF 2018
IN
APPEAL NO. 54 OF 2014

Sikander @ Sikka Ibrahim Shaikh. ... Applicant.
V/s.
The State of Maharashtra. ... Respondent.

Mr.Ganesh Gole with Mr.Baburao D. Shinde for the applicant.
Ms.PP.Shinde, APP for the respondent- State.

CORAM : A.S.OKA AND RIYAZ I. CHAGLA, JJ.

DATE : 23rd April 2018.

PC.:

As the regular Division Bench presided over by Hon'ble Shri Justice S.C.Dharmadhikari is unable to take up this application, as per the general standing order issued by the Hon'ble the Acting Chief Justice, the application will have to be heard by this Bench.

2. The present applicant/ appellant is accused No.1. The applicant has been convicted for the offence punishable under sections 302, 144, 147, 148, 323, 120(b) of Indian Penal Code and sections 3, 25(1)(c) and 27 of the Arms Act and section 3(2)(5) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. The present application of the applicant is for grant of temporary bail on the

ground that his wife was expected to deliver a child on 14th April 2018. His wife delivered a child on 15th April 2018. The learned APP tendered report dated 23rd April 2018 submitted by the Inspector of Police, Nalasopara Police Station in which he has stated that verification of the documents submitted by the applicant has been made and, accordingly, the case made out by the applicant regarding the birth of his child is found to be correct.

3. This application is opposed by the learned APP on the ground that the applicant has antecedents and two cases are pending against the applicant apart from the case in which the impugned order has been passed. She also submitted a chart signed by the Superintendent of Kolhapur Central Jail which records that the applicant was enlarged on parole when he reported late by five days and two days respectively on two occasions and, therefore, he has been penalized.

4. As regards other pending cases, it is pointed out that the first one is for the offence punishable under section 324 read with section 34 of the Indian Penal Code and the second one is for the offence punishable under sections 147, 148, 149, 323 and 363 of Indian Penal Code read with sections 37(1) and 135 of the Maharashtra Police Act. We may note here that there are other two cases mentioned in the said report in which the applicant has been acquitted. The application discloses that the applicant has other two minor children. It is true that the report of the Jail Superintendent shows that on two occasions, when the applicant was released on parole, he reported late by five days and two days

respectively. However, it is not the case that he misused the facility granted to him or that there is an allegation of objectionable conduct during the period when he was set at liberty. Therefore, by imposing stringent conditions, we propose to enlarge the applicant on temporary bail for a limited period.

5. Accordingly, we dispose of the application by passing the following order:

ORDER

- (i) The applicant shall be enlarged on a temporary bail in the sum of Rs.15,000/- with one or two sureties in the like amount for a period of one month from the date on which he is enlarged on bail;
- (ii) The temporary bail is granted subject to the condition of the applicant reporting to the Officer In-charge of the Nalasopara Police Station at least twice a week;
- (iii) It is obvious that in the event the facility is misused by the applicant, on the application being made by the State, his temporary bail is liable to be cancelled;
- (iv) Application is disposed of on the above terms.

(RIYAZ I. CHAGLA, J.)

(A.S.OKA, J.)