

Nalawade

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.1468 OF 2018

Suryaprakash Dadhich @ Sharma ..Petitioner.

vs.

Gandhar Oil Refinery India Ltd.

and anr.

..Respondents.

Mr. Pawan Mali for the Petitioner.

APP for the Respondent-State.

CORAM : A.S.GADKARI, J.

DATE : 27th March, 2018

P.C.

1. By the present petition filed under Section 227 of the Constitution of India, the applicant has questioned the correctness of the order dated 22.3.2018 passed in Misc. Application No.83/2018 by the learned Additional Sessions Judge, Greater Mumbai thereby refusing to grant interim protection to the applicant against the execution of conviction warrant dated 4.10.2017 issued by the learned Metropolitan Magistrate, 43rd Court, Borivali, Mumbai in CC No.2201/SS/2015.

2. The applicant is convicted for the offence punishable under Section 138 of the Negotiable Instruments Act and is sentenced to suffer simple imprisonment for six months and to pay a fine of Rs.7,50,514/- within two months from 4.10.2017 by the learned Metropolitan Magistrate, 43rd Court, Borivali, Mumbai. in CC NO.2201/SS/2015 by its Judgment and Order dated 4.10.2017. The Trial Court has also issued conviction warrant against the applicant by the same order.

That, feeling aggrieved by the said Judgment and Order dated 4.10.2017 the applicant has preferred a substantive appeal before the Sessions Court with an application for condonation of delay of 136 days bearing M.A. No.83/2018. The learned Additional Sessions Judge, Greater Mumbai by the impugned order, while issuing notice to the original complainant, did not grant interim protection to the applicant against execution of the conviction warrant issued by the Trial Court.

3. The learned counsel for the applicant submitted that the applicant is ready and willing to deposit the amount of

compensation i.e. Rs.7,50,514/- in the registry of the appellate Court within a period of two days from today and on his depositing the said amount the conviction warrant issued against the applicant may be stayed. The said submission of the learned counsel for the applicant is accepted.

4. The applicant is directed to deposit the said amount of Rs.7,50,514/- in the registry of the appellate Court on or before 5.00 p.m. of 31.3.2018. It is needless to mention that the deposit of the said amount is only with a view to prove the bonafides of the applicant and the said deposit is without prejudice to the rights and contentions of the applicant to be raised at the time of hearing of the appeal and/or in any other proceeding arising out of the order of conviction by the Trial Court.

After the applicant deposits the said amount, the conviction warrant issued against the applicant shall stand stayed/suspended during the pendency of the substantive appeal preferred by the applicant.

5. It is made clear that if the applicant fails to deposit

the said amount of compensation on or before 5.00 p.m. on 31.3.2018, the relief granted to the applicant by this petition shall stand vacated without further reference to this Court and the applicant shall surrender to the concerned executing authority/Jail authority without further reference to this Court.

6. It is further made clear that no further extension of time for deposit of the said amount shall be granted to the applicant under any circumstances or on any count.

7. Petition is allowed in the aforesaid terms.

8. All the concerned to act on a copy of this order duly authenticated by the registry of this Court.

(A.S.GADKARI, J.)