

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.240 OF 2018**

|                        |               |
|------------------------|---------------|
| Okoye Nnamudi Emmanuel | .. Applicant  |
| <b>Vs.</b>             |               |
| State of Maharashtra   | .. Respondent |

.....

Mr. Shekhar S. Bhandary, Advocate for the Applicant.  
Mr. A.R. Kapadnis, APP for the Respondent - State.

.....

**CORAM : PRAKASH D. NAIK, J.**

**DATED : SEPTEMBER 28, 2018.**

**P.C. :**

This is an application for modification of order dated 23<sup>rd</sup> August, 2017, passed by the District Judge and Additional Sessions Judge, Thane, below Exhibit - 1 in N.D.P.S. Special Case No.76 of 2017. Applicant was released on his executing P.R. and S.B. of Rs.30,000/-, with solvent surety in the like amount. It was also directed that he shall attend N.C.B. Office on every first date of each month until further orders. He was further directed to file his address proof and photo identity of his two close relatives. He was further directed to attend the trial Court regularly on fixed date and any two consecutive default in attendance will make N.C.B. Office entitle to file an application for cancellation of bail.

2           After grant of bail, the applicant filed an application before Sessions Court, Thane, for relaxation of condition no.4 of bail order. It was prayed that he be released on residence address of his friend in place of his own address and he be released on cash bail in lieu of surety. It is submitted that Court directed that applicant to comply the condition. It is submitted that applicant was allegedly found in possession of non-commercial quantity. However, being a foreign national, he is unable to arrange address proof and photo identity proof and address proof of close relatives. The applicant has filed affidavit of his friend Odili Obiora Paul stating that applicant would be residing with deponent at the residential Flat No.402, 4<sup>th</sup> Floor, Citizen Cooperative Housing Society, Diwa Gaon (East), Diwa, District - Thane, who is the friend of applicant. On the earlier date of hearing, the applicant has handed over his passport to the officer in the Court. Time was granted to verify the genuineness of the Passport. The concerned officer has verified the genuineness of the Passport and the High Commissioner of Nigerian has submitted letter in that regard. Learned counsel also relied upon the order passed by this Court in a similar situation relaxing such a condition. The said order was passed in Criminal Application No.19 of 2018. In the similar situation, the

condition was relaxed. In the said case, the accused who was Nigerian national was granted bail with condition that he shall furnish his photo identity proof and address proof of his two close relatives. His passport was with Authorities. The condition was relaxed vide order dated 21<sup>st</sup> March, 2018, by directing accused to inform his latest place of residence or mobile details, if any, from time to time to the trial Court as well as to concerned police station in writing within 15 days of his release and he shall not leave Mumbai and Thane city without permission of trial Court. It is submitted that similar condition be imposed by relaxing stringent condition which is sought to be relaxed. It is noted that applicant is in custody although bail is granted for non compliance of condition. He is a Nigerian national. Passport is taken into custody by prosecuting agency. Affidavit of friend of applicant who holds passport has been filed stating his address and that applicant would reside with him. In the aforesaid circumstances, the condition no.4 stipulated in order dated 23<sup>rd</sup> August, 2017, is relaxed. The applicant is, however, directed to inform the latest place of his residence and mobile contact number immediately after being released, and, change of residence or mobile details, if any from time to time to the trial court as well as to the concerned police station in writing within

15 days of his release. Applicant shall not leave Mumbai and Thane city without prior permission of the trial Court. The Passport of applicant shall be retained in safe custody by the Investigating Authority till conclusion of trial.

3 Criminal Application No.240 of 2018, stands disposed of.

**(PRAKASH D. NAIK, J.)**