

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.958 OF 2018

IN

CRIMINAL APPEAL NO.479 OF 2017

Kantilal Nagjiram Joshi ... **Applicant**

V/s.

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

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Mr.Anil G. Lalla with Ms.Beerta H. Bajwa & Ms.Aanchul Lalla i/b.
Lalla & Lalla, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 30th NOVEMBER 2018.

P.C. :

1 This is an application for temporary bail by the applicant/appellant/accused, who is convicted of the offence punishable under Section 8(c) read with Section 22(b)(ii) C of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to suffer rigorous imprisonment for ten years apart from payment of fine of Rs.1,00,000/- and in default to undergo further rigorous imprisonment for three months.

2 Heard the learned Counsel appearing for the applicant/appellant/accused. He argued that during pendency of the trial, the applicant/appellant/accused was on bail, being released on bail vide Order dated 14th February 2011 below Exhibit 4 in N.D.P.S. Special Case No.5 of 2011. The applicant has not misused his liberty, had faced the trial and ultimately he was convicted. The learned Counsel further argued that wife of the applicant/appellant/accused is suffering from Chronic Myeloid Leukemia and is requiring Bone Marrow transplantation. There is nobody to look after her as the applicant/appellant/accused and his wife are sharing estranged relationship with their children.

3 The learned Additional Public Prosecutor opposed the application by contending that after review of medical condition of the wife of the applicant, she can have the bone marrow transplantation and as such, as of now, there is no need to release the applicant/appellant/accused on temporary bail.

4 I have considered the submissions so advanced. Undisputedly, during pendency of the trial, the applicant/appellant/accused was on bail and he had not misused his liberty. The report of the Investigating Officer submitted to the the learned Additional Public Prosecutor makes it clear that Vimlaben Kantilal Joshi – wife of the present applicant/appellant/accused is suffering from Chronic Myeloid Leukemia. The learned Additional

Public Prosecutor has placed on record the said report of the Investigating Officer addressed to him. The medical certificate attached to that report shows that she is under treatment of Dr.S.H.Adwani, Shushrut Hospital, Chembur (East) and is requiring Bone Marrow plantation. The treating Doctor has reported that for undergoing this procedure one attendant will be required at least for a period of two months.

5 In this view of the matter, considering the fact that the applicant/appellant/accused was on bail during pendency of the trial and he had not misused his liberty and as his wife is suffering from Chronic Myeloid Leukemia requiring Bone Marrow plantation, the applicant/appellant/accused deserves to be released on bail for a period of three months for her treatment. Therefore, the Order :

ORDER

- (i) The application is allowed.
- (ii) The applicant/appellant/accused be released on a temporary bail for a period of three months from the date of his release on executing P.R.Bond of Rs.50,000/- and on furnishing one or two sureties in the like amount.
- (iii) As a condition of this Order, the applicant/appellant/accused to attend the office of the respondent Anti-

Narcotic Cell, Worli Unit Mumbai on 15th day of each month for the period in between 11.00 a.m. to 12.00 noon.

- (iv) As a condition of this Order, the applicant/appellant/accused shall not indulge in commission of similar offence during the period of temporary bail.
- (v) The application is accordingly disposed of.

(A.M.BADAR J.)