

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

CRIMINAL BAIL APPLICATION NO. 1058 OF 2019

Cyrus Rustom Mehershahi	...Applicant
Versus	
The State of Maharashtra	...Respondent

***WITH
CRIMINAL APPLICATION NO. 1158 OF 2019
IN
CRIMINAL BAIL APPLICATION NO. 1058 OF 2019***

Pervez K. Raisi	...Intervener
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In the matter between	
Cyrus Rustom Mehershahi	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Datta Mane I/y Prasad J. Patil, for the Applicant.
Mr. S.V. Gavand, A.P.P for the Respondent - State.
Mr. Talekar a/w Sohail Ahmed, for the Intervener.

***CORAM : REVATI MOHITE DERE, J.
DATE : 14th August, 2019.***

P.C. :

1. By this application, the applicant seeks his enlargement on bail in RCC 120 of 2016, which is pending on the file of the Judicial

Magistrate First Class, Dahanu.

2. Perused the papers. The applicant was arrested in connection with CR No. 1169 of 2015, registered with the Dahanu Police Station, for the alleged offences punishable under Sections 420, 465, 467, 468 r/w 120B of the Indian Penal Code, on 05/12/2015.

3. The learned Magistrate was pleased to enlarge the applicant on bail vide order dated 11/01/2016 on his furnishing PB and SB of Rs.15,000/-. It appears that subsequently, after the applicant was released, the applicant threatened his sister and two other witnesses, pursuant to which the prosecution filed an application seeking cancellation of his bail. The said application was filed by the prosecution on 08/02/2016. The learned Magistrate was pleased to cancel the applicant's bail vide order dated 04/03/2016. The said order cancelling the applicant's bail was challenged before the Sessions Court, and the Sessions Court confirmed the said order of the trial Court. Thereafter, the applicant approached this Court by filing Criminal Bail Application No. 2580 of 2017. It appears that the said application was withdrawn with permission of this Court, with liberty

to file an appropriate application before the appropriate Court. Accordingly, the application was allowed to be withdrawn with liberty as prayed. The said application was not rejected on merits. Thereafter, the applicant filed an application seeking his release on bail in the trial Court. The said application was rejected by the learned Additional Sessions Court vide order dated 16/11/2018. Learned counsel for the applicant has today tendered an affidavit of the applicant, wherein the applicant has undertaken not to commit similar offence in the future. He has also undertaken to stay outside the jurisdiction of Dahanu and has stated that he will not enter the jurisdiction of Dahanu except for attending the trial Court dates. The applicant has also undertaken not to contact, threaten or pressurize any prosecution witness. He has also stated that he will attend the trial Court on every date and in the event there is any breach, the prosecution will be at liberty to seek cancellation of his bail. He has also undertaken not to seek any adjournments in the case. The said affidavit is taken on record and marked as 'X' for identification. The applicant is in custody since March, 2016. It is informed that the trial has commenced and till date three witnesses have been examined, including one of the witness, who was allegedly threatened by the applicant.

4. Considering the fact that the applicant, aged 65 years, is in custody for three years after his bail was cancelled, and in particular, having regard to the affidavit of the applicant tendered today, the application is allowed on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- ii) The Applicant shall not tamper with the evidence or attempt to influence, threaten or contact the concerned witnesses or any person concerned with the case;
- iii) The Applicant shall not enter the jurisdiction of Dahanu except for the purposes of attending the trial Court, on the dates given by the trial Court.
- iv) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change

of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station.

v) The Applicant shall deposit his passport, if any, to the Investigating Officer before his release;

vi) The Applicants shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial Court;

vii) An undertaking to the aforesaid clauses (ii) to (vi), shall be filed by the Applicant, in the Registry of the trial Court, within one week of his release;

viii) If there is any single default in appearing before the trial Court or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

5. The Application is allowed and disposed of in above terms.

6. It is informed that the trial has commenced. Accordingly, the learned Trial Judge to decide the same as expeditiously as possible.

7. All concerned to act on the authenticated copy of this order.

8. In view of the aforesaid, the Intervention Application being Criminal Application No.1158 of 2019 does not survive and the same is also disposed of.

(REVATI MOHITE DERE, J.)