

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2404 OF 2019

Shakir Rezak Shaikh

...Petitioner

VERSUS

The State of Maharashtra

..... Respondent

.....

Mr. Jaideep Thakkar, for petitioner.

Mr. A.R. Patil, APP for State.

PSI- R.S. Dhaigude, Mankipur Police Station, Palghar-Present.

CORAM : S. S. Shinde J.

DATED : 19th June, 2019

P.C.

1. Rule. Rule made returnable with the consent of the parties and heard.
2. The petitioner being aggrieved by the Clause 2 of the impugned order directing the petitioner to furnish bank guarantee for 26,00,000/- or to deposit amount of Rs. 26,00,000/- as a condition precedent for return of the passport to the petitioner has filed the present petition.

Learned counsel appearing for the petitioner submits that the said condition is onerous and it is beyond the financial capacity of the petitioner to provide such bank guarantee or to deposit Rs. 26,00,000/- as

ordered by the Additional Sessions Judge-1, Vasai. The petitioner is present in the Court and on his instructions, learned counsel appearing for the petitioner submits that, the petitioner is ready to furnish bank guarantee of Rs. 7,00,000/-.

3. Learned APP appearing for the State vehemently opposed the prayer and submits that by the reasoned order the Additional Sessions Judge-1 Vasai, has imposed the conditions of furnishing bank guarantee or deposit of Rs. 26,00,000/-, for return of passport, therefore, this Court may not interfere in the impugned order.

4. After appreciating the rival contentions and upon perusal of pleadings and grounds taken in the petition, and also in the light of statements made by the learned counsel for the petitioner on instructions that the petitioner is ready to furnish bank guarantee of Rs. 7,00,000/- and the fact that earlier when the petitioner was allowed to travel abroad, he reported back within time, I am inclined to pass the following order:-

- i) Clause 2 of the impugned order directing the petitioner to furnish bank guarantee of Rs. 26,00,000/- or on depositing Rs. 26,00,000/- to return the passport to the petitioner stands quashed and set aside and in stead it is

directed to be returned to the petitioner on furnishing bank guarantee of Rs. 7,00,000/- of Nationalized Bank, without prejudice to the contentions of the petitioner.

5. Needless to observe that rest of the conditions imposed by Sessions Court, while allowing the application of the petitioner for bail, is not subject matter of the present petition and therefore, petitioner is bound to adhere to said conditions. After return from abroad the petitioner shall report the concerned police station/police officer and surrender the passport.

6. Petition is partly allowed. Rule made absolute to the aforesaid extent.

7. Petition stands disposed of accordingly.

[S.S. SHINDE, J.]