

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

CRIMINAL APPLICATION NO.216 OF 2019

Lala Alias Sayyed Mansur Sayyed Yusuf Applicant

versus

The State of Maharashtra Respondent

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- Mr. Ramakant Patil, Advocate for Applicant.
- Mr. Prashant Jadhav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 2nd AUGUST, 2019

P.C. :

1. The applicant is praying for modification of the order passed by the Ld. Additional Sessions Judge, Pune in Bail Application No.1247/2019 on 12/4/2019. The applicant was arrested in connection with C.R. No.248/2018 registered with Vimantal Police Station, Pune, under section 414, 413, 379, 201 and 34 of IPC. The offence was in respect of theft of a truck. Other accused Sachin Kamble and Ganesh Puri were granted bail vide order dated 27/3/2019 passed in Bail Application No.1189/2019

by the Additional Sessions Judge, Pune. Thereafter, the present applicant had preferred the application for bail before the Court of Sessions, Pune which was allowed. However, the applicant was granted bail on his furnishing P.R. Bond of Rs.1,25,000/- with one or two local solvent sureties in like amount. In addition to this, the applicant was directed to deposit Rs.25,000/- as cash security before the Trial Court. Apart from this, two more conditions were imposed. The applicant was directed to attend concerned Police Station. The Ld. Judge has specifically observed that though there are criminal antecedents against him, on that ground bail could not be refused to him. There are other conditions mentioned in the order. One of the condition was that if he committed single default in regular and punctual attendance, the Trial Court was at liberty to forfeit the cash security of Rs.25,000/-. The operative part is as follows:

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ORDER

1. Application is allowed.
2. Applicant – Lala aka Sayyed Mansur Sayyed Yusuf, be released on bail in C.R. No.248/2018 registered with Vimantal

Police Station, Pune, under sections 414, 413, 379, 201 & 34 of IPC, on furnishing PR bond of Rs.1,25,000/- (Rs.One Lac Twenty Five Thousand only) with one or two local solvent sureties in like amount.

3. By way of abundant precautions, applicant is also directed to deposit Rs.25,000/- as cash security with this court.

4. He shall attend the concern police station on first week of March, June, September and December in police station in between 10.00 a.m. to 12 noon till conclusion of trial.

5. He shall neither tamper the evidence of prosecution nor influence the prosecution witnesses.

6. If in future the applicant will involve in similar type of offence, prosecution will be at liberty to move application for cancellation of bail.

7. If applicant would commit single default in regular and punctual attendance, the trial court will be at liberty to forfeit the cash security of Rs.25,000/- deposited.

8. Bail before learned Magistrate.”

2. The applicant found it difficult to comply with the conditions and therefore, he made application for modification of those conditions. That application was rejected by the Ld. Judge vide order dated 15/4/2019. It is mentioned in that order that there were seven cases pending against the applicant and therefore, the application was rejected.

3. Heard Mr. Ramakant Patil, Ld. Counsel for the Applicant and Mr. Prashant Jadhav, Ld. APP for the State.

4. Mr. Patil submitted that once the Ld. Judge was of the opinion that bail should be granted to the applicant, he should have put such conditions which were possible for the applicant to comply with. The conditions imposed by the Additional Sessions Judge are impossible for the applicant to comply with and is thereby denied the benefit of the bail order passed in his favour.

5. Ld. APP opposed his application. According to him, conditions are put by the Ld. Sessions Judge to secure his

presence.

6. I have considered these submission. The bail order was passed on 12/4/2019. Thereafter, for about more than three months the applicant could not avail of the order because of his poor financial condition. He is denied benefit of the bail order. The Ld. Judge in his order itself had mentioned that his criminal antecedents was not a deterrent for granting bail to him. However, on the same ground, the Ld. Judge has rejected the applicant's application for modification of conditions. The contention of the applicant appears to be genuine because since past three months he could not arrange for surety nor could he deposit the amount of Rs.25,000/- as directed. The idea behind putting this condition is to secure presence of the applicant. If the applicant commits default in attending the police station or the Court, investigating agency has power to arrest him again. In this view of the matter, I am inclined to modify the order passed by the Additional Sessions Judge, Pune by relaxing certain conditions. The co-accused are granted bail on the condition that they shall

execute P.R. Bond of Rs.20,000/- each with one or two sureties of like amount, including one local surety. On the ground of parity, similar conditions can be imposed on the applicant. Hence, the following order.

ORDER

- (i) The Applicant is directed to be released on bail in connection with C.R. No.248/2018 registered with Vimantal Police Station, Pune, on his executing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in like amount including one local surety.
- (ii) The clause '3' of the Operative Part of the order of the Ld. Additional Sessions Judge reads thus-
“By way of abundant precautions, applicant is also directed to deposit Rs.25,000/- as cash security with this Court.” This condition is deleted.
- (iii) The result of consequent clause No.7 of the said order also does not survive, hence it is deleted.

- (iv) The applicant shall attend the concerned Police Station on every first Sunday of the month between 10.00 a.m. to 12.00 noon till conclusion of the trial.
- (v) The applicant shall not tamper the evidence of the prosecution nor influence the prosecution witnesses.
- (vi) The applicant shall not involve in similar type of offences.
- (vii) In case of any default on his part, prosecuting agency is at liberty to move an application for cancellation of bail.
- (viii) With these modifications, the application is disposed of.

(SARANG V. KOTWAL, J.)