

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

**CRIMINAL APPLICATION NO. 292 OF 2019**

Shri Sujat Ali A. Karim Shaikh & Anr. .... Applicants

Versus

The State of Maharashtra .... Respondent

.....

Mr. Satyajeet A. Rajeshirke, Advocate for the Applicant.

Mr. Prashant Jadhav, APP for the State/Respondent.

Mr. Ashraf Kapoor i/b Mohammed Zain Khan for Intervenor.

Mr. Mohsin Hafiz Ab Jalil Munshi (Informant) – present.

**CORAM : SARANG V. KOTWAL, J.**

**DATE : 30<sup>th</sup> AUGUST, 2019**

**P.C. :**

1. Leave to amend. Amendment to be carried out forthwith. The Applicant has preferred this application for modifying the order dated 28<sup>th</sup> May, 2019 passed by the Learned Additional Sessions Judge – 4, Solapur in Criminal Bail Application No. 552 of 2019 whereby the applicants were directed to deposit Rs. 12,24,000/- as pre-condition for their release on bail. The Applicants were arrested in connection with C.R. No. 305 of 2019

registered at Jail Road Police Station Solapur. The allegations in the application were that on the pretext of arranging a tour for Umrah/Haj, the applicants had taken Rs. 25,000/- each from 25 persons but did not fulfill their commitment. Neither the amount was returned. The Learned Additional Sessions Judge after hearing both the parties was pleased to observe thus :

*12. “ The applicants are arrested on 03/05/2019. Presently they are in magistrate custody in jail. It is not disputed that, they are permanent resident of Solapur. There are no recovery or discovery remained to be made from the applicant accused. The investigation and trial would take its own time which is indefinite. Applicant No.1 is suffering from chest pain. However, the documents to this effect was not produced on record. The I.O. has not produced on record on criminal antecedent against them. In short, bail deserves to be granted to applicants. At the same time, the interest of the informant and other persons/victim needs to be protected. Hence, applicant shall deposit the amount of Rs. 12,24,000/- in the Court. The I.O. in his letter dated 16.5.2019 bearing O.No. 2208 stated that as on today, the total amount cheated by the accused is Rs. 12,24,000/-. Still today, the peoples are not coming before the police due to Ramjan fast and heavy temperature remaining in the city. After the Ramjan fast some more peoples may come before police. Hence, bail deserves to be granted to applicant. Hence, point No. 1 is answered in the affirmative.”*

2. After this order the applicants preferred another

application vide Criminal Miscellaneous Application No. 552 of

2019 in the same court praying for permission to deposit Rs. 6,00,000/- and for deferred payment of the remaining Rs. 6,24,000/- to be paid within two months. Even that application was granted vide order dated 29/05/2019. The applicants deposited the initial amount of Rs. 6,00,000/- and were released on bail. However, they could not deposit the balance amount of Rs. 6,00,000/- Therefore, they preferred another application before the same court vide Criminal Miscellaneous Application No. 88 of 2019. In the mean time, the applicant had approached this court vide Criminal Application No.272 of 2019 for modification of the bail order but since the application was pending before the sessions court this court directed them to pursue that remedy. Thereafter, the Additional Sessions Judge-4, Solapur vide order dated 09/08/2019 rejected the applicants' application for relaxation of condition on the ground that the matter was pending before high court. When this order was passed on 09/08/2019, the application was not pending in the high court as it was already disposed of on 07/08/2019. Thus, as of today the situation is that the period of two months granted to the applicants is already over.

They are unable to make payment of the balance amount till today. Both the applicants are present in the court. The learned counsel for the applicants identified them in the court. Even the informant is present in the Court. Mufti Mohsin A. Jalil Munashi is present in the court is identified by Advocate Ashraf Kapoor. Advocate Ashraf Kapoor undertakes to file Vakalatnama on his behalf within a period of one week.

3. Heard all the parties. The order passed by the Additional Sessions Judge- 4, Solapur granting bail, clearly observes that the applicants deserve to be released on bail. However, the learned Judge in order to secure the interest of the complainant, directed the applicants to deposit Rs. 12,24,000/-. In spite of their efforts, the applicants are unable to arrange the balance amount of Rs. 6,24,000/- Considering the situation, I am inclined to relax the conditions imposed by Additional Sessions Judge – 4, Solapur and permit the applicants to deposit Rs. 2 lakhs further instead of balance amount of Rs. 6,24,000/-. I am also inclined to permit the informant to withdraw that amount

unconditionally. Learned counsel for the applicants on instructions states that they have no objection if the amount of Rs.6,00,000/- is withdrawn by the first informant. Hence, the following order.

**ORDER**

1. Instead of depositing the balance amount of Rs. 6,24,000/- the applicants are permitted to deposit amount of Rs. 2,00,000/- before the Sessions Court, Solapur within a period of four weeks from today.

2. The informant Mr. Mohsin Hafiz Ab Jalil Munshi is permitted to withdraw that amount unconditionally.

3. If the amount is not so deposited within a stipulated period, this order will come to an end and the applicants will have to surrender pursuant to the original order passed by the Additional Sessions Judge – 4, Solapur.

4. Consequently, the operative part of the order dated 28/05/2019 passed by the Additional Sessions Judge -4, Solapur needs to be modified and instead of Rs. 12,24,000/- it shall

operate for the amount of Rs. 6,00,000/- which is already deposited by the applicants before that court.

5. The rest of the conditions shall remain as they are.

6. The Application is disposed of.

**(SARANG V. KOTWAL, J.)**