

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 338 OF 2019**

Mahesh Babu Tota	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Raviraj R. Paramane for the Applicant

Mr. S. V. Gavand, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 16th OCTOBER 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks relief in terms of
prayer clause (a), which reads as under :

*“a. The condition imposed vide order dated 7.10.2019 to
furnish Bank Guarantee of Rs. 15,00,000/- and two
solvent sureties of Rs. 25,000/- each be cancel and/or
modify in the interest of Justice.”*

3 Perused the papers. On 23rd April 2019, the applicant was
arrested in connection with C.R. No. 80 of 2019, registered with the
Nerul Police Station, Navi Mumbai, for the alleged offences
punishable under Sections 420, 406 of the Indian Penal Code and

under Sections 3 and 4 of the Maharashtra Protection of Interests of Depositors (in Financial Establishments) Act. It is not in dispute that as the police failed to file charge-sheet within the stipulated period i.e. on 15th July 2019, the applicant was granted statutory bail under Section 167(2) of the Code of Criminal Procedure ('Cr.P.C'). Whilst granting statutory bail under Section 167(2) of the Cr.P.C, the learned Additional Sessions Judge, Thane, imposed a condition vide clause 2(a) that the applicant shall give bank guarantee of Rs. 25,00,000/-, amongst other conditions.

It appears that the applicant filed an application for modification of the said condition and the learned Judge vide order dated 7th October 2019 was pleased to partly allow the said application and accordingly, modified the aforesaid condition and directed the applicant to give bank guarantee of Rs. 15,00,000/- instead of Rs. 25,00,000/-.

4 It is not in dispute that the bail granted to the applicant was under Section 167(2) of the Cr.P.C. i.e. statutory bail. The learned Judge, in these circumstances, could not have imposed an onerous condition of directing the applicant to give bank guarantee of Rs. 25,00,000/-, which is subsequently modified to Rs. 15,00,000/-.

5 Learned A.P.P also does not dispute the fact that such an onerous condition could not have been imposed, since the applicant has been released on bail under Section 167(2) of the Cr.P.C.

6 Considering the aforesaid, the said condition directing the applicant to give bank guarantee of Rs. 15,000/- stands cancelled.

7 Application is allowed on the aforesaid terms. Rest of the conditions imposed by the learned Judge to remain as it is.

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

REVATI MOHITE DERE, J.