

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL APPLICATION (APL) NO.107 OF 2019

(Vivek s/o Vasantao Kashyap and another ..vs.. State of Maharashtra, through PI, Economic Officer (EOW), Branch Chandrapur registered with PS Talodhi (Ba.))

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri J.S. Chilotra, Counsel for the applicants,
Shri P.S. Tembhare, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 29-04-2019

The applicants are assailing the order dated 22-10-2018 rendered by the Judge, Special Court, Chandrapur in Misc. Criminal Application 1178/2018 to the extent the application for relaxation of the conditions of bail imposed vide order dated 03-10-2018 in Crime 105/2016 is only partly allowed.

2. One of the conditions of grant of bail was that the applicants shall deposit an amount of Rs.30,00,000/- in the Court.

3. The Judge, Special Court modified the said condition and directed that Rs.10,00,000/- shall be deposited in the Court as condition of release and the remaining Rs.20,00,000/- shall be deposited within three months from the release of the applicants. It is not in dispute that the applicants have deposited Rs.10,00,000/-. The applicants have expressed

willingness to offer the landed property owned by the firm in which the applicants are partners, with the consent of the other partners, as security.

4. A praecipe is filed on record alongwith which is an affidavit sworn by Smt. Shubhangi Kashyap and Shri Ram Raut who are said to be the partners, alongwith the applicants, of the firm-The New Ajinkya Real Estate. The value of the property as per the online ready reckoner is stated to be Rs.1,00,00,000/- (Rupees One Crore).

5. Several decisions of the Hon'ble Apex Court have emphasized that the conditions of bail must have a rational nexus to the object which is to secure the presence of the accused to face the trial. Conditions cannot be so onerous as would render the right of the accused to bail illusory.

6. In view of the willingness of the applicants to offer the landed property as security, this Court does not necessary to delve in the decisions of the Hon'ble Apex Court which articulate that bail conditions cannot be onerous nor can be a recovery mechanism.

7. The application is allowed.

8. Instead of deposit of Rs.20,00,000/- as cash security, the applicants are permitted to offer the landed

property described in paragraph 4 of the affidavit sworn by Smt. Shubhangi Kashyap and Shri Ram Raut as security, subject to the condition that appropriate proof of ownership and unencumbered title is furnished to the satisfaction of the Special Judge.

9. The application is disposed of accordingly.

JUDGE

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