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

CRIMINAL WRIT PETITION NO.829 OF 2020

Benjiman Venkateshwarlu Eragadinnella and Ors. ... Petitioners

Versus

State of Maharashtra ... Respondent

Mr. Mohd. Qais a/w Mr. Shaijad Khan, Mr. Adil Modi i/b. Mohd. Khan
Yousuf for the Petitioners.

Ms. PP. Shinde, APP for the Respondent - State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 18th MARCH 2020.

P.C.:

1 The petitioners herein are seeking modification of the orders
by which the petitioners were granted bail by the learned Judicial
Magistrate, First Class, Kalyan.

2 There are 10 offences registered at Mahatma Phule Chowk
Police Station, 3 offences are registered at Manpada Police Station, 1
offence is registered at Nizampura Police Station and 1 offence is registered
at Taloja Police Station and 1 offence is registered at Kalamboli Police
Station. The offences registered in C.R. No.289 of 2019, the applicants are
charge sheeted for offence punishable under section 395 of the Indian

Penal Code and the Sessions Court by order dated 21st January 2020 has been pleased to allow the application filed under section 439 of the Code of Criminal Procedure, 1973 by directing the applicants to be released on furnishing P.R. Bond of Rs.25,000/- each. Similarly, in C.R. No.291 of 2019, the applicants are charge sheeted for an offence punishable under sections 399, 402, 120-B, 353, 332 of Indian Penal Code and under section 2 r/w section 25 of the Indian Arms Act, 1959 and sections 37(1) and 135 of the Maharashtra Police Act, 1951. The applicants are enlarged on bail by the Sessions Court, Kalyan vide order dated 5th February 2020 directing the applicants to be enlarged on bail on furnishing P.R. Bond of Rs.50,000/- with one solvent surety. As far as other offences are concerned, the applicants are enlarged on bail on furnishing P.R. Bonds in the sum of Rs.15,000/- each in each of the offences.

3 The learned APP submits that the conditions imposed upon the applicants need not be relaxed. The learned APP submits that the applicants are the original residents of Andheri Pradesh and therefore, their presence at the trial needs to be ensured by all means and hence, the orders do not require any modification in view of the fact that they are being prosecuted for the offence punishable under section 395 of the Indian Penal Code. It is true that the liberty of an individual cannot be

allowed to outweigh the security and safety of the society at large. However, it would be necessary to adopt a humanitarian approach.

4 In the case of *Moti Ram and Ors. Vs. State of M.P.*¹, the Hon'ble Apex Court had held as follows :-

“Social justice is the signature tune of our Constitution and the little man in peril of losing his liberty is the consumer of Social Justice.”

5 It is true that the grant of bail should not be made possibly inconvenient, expensive and un-executable.

6 Another aspect that needs to be taken into consideration is that the applicants are ready to furnish the local sureties although they are from Andhra Pradesh and in view of this, it would not be proper to allow further incarceration of the applicants. The applicants also undertake to abide by any other conditions imposed upon them while grant of bail. It would be necessary to see that they do not flee from justice and therefore, applicants can be directed to mark their presence before the respective Police Stations till the stage of framing of charge. The orders are being modified to strike the balance between the rights of the individuals and social justice.

1 1978 AIR 1594

7 Despite the fact that the applicants have been granted bail they could not be enlarged on bail as they could not comply with the orders granting bail due to economic stringency. That the orders granting bail cannot be taken to its logical end, since the applicants are unable to comply with the conditions imposed upon them and the same would not only cause prejudice to the accused persons but would be unjustifiable. That in view of the onerous conditions imposed upon the applicants, it is difficult for them to execute the bail bonds and moreover, there would be several people required for furnishing sureties.

8 In view of this and in the interest of justice to make effective the bail orders granted by the Courts, it would be necessary to modify the order accordingly. Hence, the following order is passed :-

ORDER

- (i) As far as the 10 offences which are registered in Mahatma Phule Chowk Police Station, the applicants shall furnish one bail bond in the sum of Rs.20,000/- and one or more solvent sureties in one of the offences;
- (ii) As far as the 3 offences registered at Manpada Police Station, the applicants shall furnish bail bonds in the sum of

Rs.20,000/- and one or more solvent sureties in one offence;

- (iii) As far as offence registered at Taloja Police Station in C.R. No.98 of 2019 and Kalamboli Police Station in C.R.No.166 of 2019 are concerned, the applicants would be tried by the same Court i.e. Panvel Court and hence, they shall furnish sureties in the sum of Rs.15,000/- with one or more solvent sureties in the like amount;
- (iv) As far as offence in C.R. No.169 of 2019 registered with Nizampura Police Station is concerned, the same would be tried by the Magistrate at Bhiwandi and hence, the applicant shall furnish P.R. Bond of Rs.15,000/- and one or more solvent sureties from Bhiwandi;
- (v) As far as the offences registered at Kolsewadi Police Station are concerned, P.R. Bond of Rs.20,000/- and one or more solvent local sureties;
- (vi) The applicants shall mark their presence before Mahatma Phule Chowk Police Station on Monday, Manpada Police Station on Tuesday, Kolsewadi Police on Wednesday and Nizampura Police Station on Thursday, Taloja Police Station on Friday and Kalamboli Police Station on Saturday

between 10.30 am to 1.00 pm;

- (v) Application is allowed on above terms and disposed of.

(SMT. SADHANA S. JADHAV, J.)