

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

14 CRIMINAL APPLICATION NO.2190 OF 2020
IN
WRIT PETITION NO.921 OF 2019

KAMLESHBHAI S/O. RAJNIKANT SHAHA ..APPLICANT

VERSUS

THE STATE OF MAHARASHTRA ..RESPONDENT

...

Advocate for Applicant : Mr. A. B. Girase & Mr. Y. B. Bolkar
APP for Respondent-State: Ms. R. P. Gour

...

**CORAM : N.R. BORKAR, J.
DATE : 22.11.2021**

PER COURT :-

By way of this application, the applicant is praying for relaxation of condition imposed by this Court, while allowing Criminal Writ Petition No. 921 of 2019 by order dated 28.08.2019. The relevant para six of the order passed by this Court read thus

“6. The writ petition is allowed. The impugned order to the extent of refusing to return the cash is quashed and set aside. The cash be returned to the petitioner subject to his furnishing bank guarantee of a nationalised bank to the tune of that amount and on executing a bond and furnishing a surety to the same extent with usual terms. The petitioner shall continue to renew the bank guarantee from time to time till the final decision of the case. ”

2. The learned counsel for the applicant submits that applicant has furnished the bank guarantee as ordered by this

Court with the hope that decision of case will not take much time. It is submitted that even after two years there is no progress in the matter. It is submitted that applicant is a businessman. It is submitted that for furnishing bank guarantee the applicant has deposited 1,86,86,500/- with the bank and he is not able to use the said amount for his business since last two years.

3. The learned counsel for the applicant submits that applicant is ready to give undertaking that someone else is found entitled to the said amount, then he would return the amount in question to the said person with interest. The learned counsel for the applicant submits that the applicant has already executed bond and even furnished the surety.

4. The learned A.P.P. on the last date was directed to take instructions, with regard to the status of Sessions Case.

5. Today, the learned A.P.P has produced on record the letter of learned A.P.P who is appearing in the session case. Same is taken on record and marked as 'X' for identification. It appears that evidence of only one witness is recorded and the prosecution is proposing to examine about 25 to 30 witnesses.

Considering the facts and circumstances the condition imposed by this Court that the petitioner shall continue to renew the bank guarantee from time to time till final decision of the session case is relaxed subject to applicant furnishing undertaking before the Sessions Court that he will abide by the directions given by the trial Court in relation to amount in question and if somebody else is found entitled to the said amount then he will return the amount in question to the said person with interest.

6. The application is disposed of in above terms.

(N. R. BORKAR)
JUDGE

ysk