

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.129 OF 2021

IN

CRIMINAL APPEAL NO.409 OF 2007

Amol Moreshwar Achrekar

...Applicant/Appellant

Versus

The State of Maharashtra

...Respondent

Ms. Deepali Kamble for the Applicant/Appellant.

Mr. H. J. Dedhia, APP for the Respondent/State.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 18th JANUARY 2021.

P.C.:

Heard Ms. Kamble, the learned Counsel for the Applicant
and Mr. H. J. Dedhia, the learned APP for the Respondent-State. .

2. It is not out of place to state that the application was listed before this Court on 15th January 2021 and the applicant sought for extension of time to surrender as directed by the Division Bench of this court vide order dated 22nd September 2020. Considering the ground raised in the application and considering the fact that the extension was granted by this court up to 15th January 2021 vide

order dated 22nd September 2020, the present application was listed before this Court on 8th January 2021 and extension granted was further extended till 19th January 2021.

3. Two fold submissions are made in the application for seeking extension of period to surrender. Firstly, it is submitted that the Applicant has filed Special Leave Petition before the Hon'ble Apex Court and the application could not be taken up/listed before the Hon'ble Apex Court till date of filing of this application. Then it was orally submitted before this Court that the Applicant tested positive for COVID-19 and under treatment from 3rd December 2020. The medical certificate issued by Primary Health Center Umbraj, Taluka Karad was placed on record in support of his submission in the Interim Application No.1467 of 2020.

4. The learned counsel for the Applicant submitted that by order dated 22nd December 2020, the Division Bench of this Court was pleased to allow the application and the applicant was granted extension to surrender up to 15th January 2021.

5. Today the learned counsel appearing for the Applicant invited our attention to the certificate issued through the Primary Health Center, Umbraj, Tal. Karad under the signature of the Medical Officer of the Primary Health Center, Umbraj. Same is taken on record for identification.

6. Perusal of the certificate shows that the Applicant who was treated as OPD patient is advised rest. The certificate further states that the Applicant is suffering from post COVID illness. Thus, it can safely be said that the applicant has undergone medical treatment or had completed his course of treatment and now requires rest for post COVID illness. Thus, in our opinion this is not a ground convincing this Court so as to grant a further extension to surrender. It may not be out of place to state that vide order dated 22nd September 2020 the Division Bench of this Court extended the time up to 15th January 2021 so as to surrender before the learned Sessions Court. It was further directed that upon failure, the learned Additional Session's Court shall issue non bailable warrant against the Applicant. The application thus was allowed and disposed of accordingly.

7. Now the learned counsel for the Applicant submitted before this Court that request is made before the Hon'ble Apex Court for circulation of the Special Leave Petition. The applicant refers to Diary No.179 of 21. The learned counsel for the Applicant orally submitted before this court that the learned counsel in the Hon'ble Apex Court representing the Applicant is again making a request for circulation of the Special Leave Petition by today or tomorrow itself. On this ground the learned counsel for the Applicant prayed for extension of time to surrender before the trial Court.

8. In our opinion the Applicant was granted sufficient time to surrender before the Authorities and extension was also granted to

the Applicant in view of the report that the Applicant was tested positive for COVID-19. As such the ground raised of further treatment for COVID-19 in our opinion is not substantiated by any cogent material. Now only the other ground remains for consideration and that is the learned counsel representing the Applicant in the Hon'ble Apex Court is making a request either today or tomorrow for circulation of Special Leave Petition. Considering this ground, we grant extension to surrender before the learned Trial Court on 30 January 2021. In case the Special Leave Petition is not listed before the Hon'ble Apex Court before 25 January 2021 the Applicant to surrender before the Trial Court in any event on 1 February 2021. Upon failure to surrender the Additional Session Judge, Pune shall take appropriate steps.

9. The Interim Application is accordingly disposed of.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)

R.S.
Karve

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