

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.786 OF 2021
IN
CRIMINAL APPLICATION NO.467 OF 2018
IN
CRIMINAL APPEAL NO.294 OF 2018

Gopal Jailal Dadhia .. Applicant

Vs.

Central Bureau of Investigation .. Respondent

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Mr. Saurabh Ghag i/b Difya Bhatia for the Applicant.

Mr. Sandesh Patil for the CBI.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 19TH MARCH, 2021.

P.C:-

1. The Applicant, a septuagenarian, has approached this court seeking modification of the condition imposed on him while he was released on bail in an ACB Case, invoking Sections 120-B read with Section 420, 465, 467, 461 of the IPC read with Section 13(2) and Section 13(1)(d)(ii) of the Prevention of Corruption Act, 1988.

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2. On 28/03/2018, while hearing the Application for suspension of sentence and for releasing the Applicant on bail, the following operative order was passed.

“(a) During the pendency of appeal, the substantive sentence imposed upon the applicant is suspended.

(b) The applicant be released on bail in CBI/ACB Case No.70 of 2005 on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

(c) During the pendency of the appeal, the applicant shall mark his presence before the Trial Court on every first Monday of the month between 11.00 a.m. to 2.00 p.m. If the said Monday is Court holiday/public holiday, the applicant shall mark his presence on immediate next date.”

3. The Applicant seeks modification of condition (c) above, on two counts viz. that he is in his advanced age and the medical papers placed on record reveals that he is diagnosed with diabetic neuropathy, requiring acute treatment. Further, the medical papers placed on record make an observation that he has history of hypertension and, on the examination, there was no vibration or sensation in both his lower legs. This peculiar condition is on account of the advanced age. Another count on which the relaxation of the condition is sought is of the

pandemic and being in advanced age, reporting to the court on every Monday when the courts being crowded, he is apprehensive about his health. The learned counsel appearing for the Applicant makes a categorical statement that in terms of the order passed earlier, he has abided by the same in letter and spirit and this fact is not denied by the learned counsel appearing for the CBI.

4. On perusal of the Application, it can be seen that the Applicant has pleaded all the necessary averments, which are supported by documents on record. The Appeal, which is instituted in the year 2018 is pending for hearing. In such circumstances, the Applicant cannot be completely exempted from abiding by the conditions but the stipulation that he will mark his attendance before the trial court on first Monday of the month, can be relaxed and, if he reports once in three months. The purpose for which the condition is imposed by this court by order dated 28/03/2018 can be achieved. In the peculiar circumstances of the case, the order dated 28/03/2018 is modified by substituting condition (c) in the following manner.

- (c) During the pendency of the appeal, the Applicant shall mark his presence before the trial court between 1st and 10th of the first month in a trimester between 11.00 and 02.00 p.m.

5. With this modification, the other stipulations contained in the order dated 28/03/2018 stand as they are.
6. The Application is disposed of.

SMT. BHARATI DANGRE, J.