

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO. 5 OF 2021
ALONGWITH
CRIMINAL APPLICATION NO. 6 OF 2021
ALONGWITH
CRIMINAL APPLICATION NO.7 OF 2021
ALONGWITH
CRIMINAL APPLICATION NO. 8 OF 2021
ALONGWITH
CRIMINAL APPLICATION NO. 10 OF 2021
ALONGWITH
CRIMINAL APPLICATION NO. 12 OF 2021
ALONGWITH
CRIMINAL APPLICATION NO.22 OF 2021**

ARIF CHAND KHAN & ORS.) APPLICANTS

V/S.

THE STATE OF MAHARASHTRA) RESPONDENT

*** * * ***

Mr. Ramprasad V. Gupta, Advocate for the applicants in all matters.

Mr. Y.M. Nakhawa, APP for State.

Investigating Officer, PSI-Mr. Vijay Mohite, from Park site Police Station present.

Coram : Sandeep K. Shinde, J.

Saturday, 4th December, 2021.

P.C. :

1. Applicants are appellants in following Criminal Appeals pending in the Sessions Court being Appeals No.270/2020, 227/2020, 228/2020, 229/2020, 269/2020, 226/2020 and 271/2020.

2. Appellants were convicted and sentenced to suffer various terms of imprisonment ranging from one year to three years, in C.C. Nos.817/PW.2018; 834/PW/2018, 836/PW/2018, 1394/PW/2018, 813/PW/2018, 701/PW/2018 and 833/PW/2018 for the offences punishable under Sections 379, 420, 465, 467, 468, 471, 201 read with Section 34 of the Indian Penal Code. In appeals against the conviction and sentence, the Appellate Court vide order dated 1st February, 2020 granted bail to the appellants subject to furnishing P.R. Bond of Rs.15,000/- and one surety in the like amount in each appeal and suspended the sentence. However, due to COVID-19 pandemic and the consequent lockdown, the learned Appellate Court, as a stop-gap arrangement, permitted to furnish cash bail in the sum of Rs.10,000/- for the period of six months. Accordingly, the appellants have

furnished bail and deposited the amount. After expiry of period of six months, the appellants moved an application seeking modification of order by expressing their inability to furnish seven independent sureties, in terms of the order dated 1st February, 2020. The appellants' contention was that, since they have been convicted in seven cases, it was not possible to furnish seven independent sureties in seven appeals. The Appellate Court, however, declined to accede to the request of the appellants and rejected the same. Feeling aggrieved by the said order dated 17th December, 2020, these applications are moved under Section 482 of the Criminal Procedure Code seeking order that the appellants be permitted to furnish the cash bail in lieu of the sureties.

3. Heard learned Counsel for the applicants, Mr. Nakhawa, APP for the State. Investigating Officer is present.

4. The appellants have been convicted in seven cases under Section 379 and other offences of the Indian Penal Code. Mr. Nakhawa, has placed on record,

particulars of such other offences registered against the appellants under Section 379 of Indian Penal Code before conviction. Mr. Nakhawa, therefore submitted that the appellants are 'habitual offenders' and therefore the possibility of their fleeing from justice, during the pendency of these Appeals, cannot be ruled out. Mr. Nakhawa, therefore argued that, applicants prayer to release them on cash bail may not be granted.

5. Section 445 of the Code is meant for the benefit of the person, who is unable to find a surety. In the facts and circumstances of the case in hand, it may be hard for the appellants to secure surety of seven persons. Therefore, in the backdrop of the facts of the case, applicants' antecedents and apprehension of prosecution that, appellants may flee from justice, if released on cash bail, in my view, to strike the balance, applicants can be directed to furnish the surety in one case in the sum of Rs.30,000/- (Rs. Thirty Thousand) each, with one or more sureties and in remaining six cases, they can be released on cash bail. The learned Counsel for the applicants, on instructions has agreed to this adjustment. As such,

appellants shall execute the bond in the sum of Rs.30,000/- (Rs. Thirty Thousand) each, with one or more sureties in Criminal Appeal No.270/2020 arising from conviction in Criminal Case No.817/PW/2018 AND for remaining appeals, each applicant shall deposit a sum of Rs.15,000/- (Rs.Fifteen Thousand only) in each appeals in terms of Section 445 of the Criminal Procedure Code.

6. Additionally, the appellants shall report to the local Police Station, once in a month i.e. second Monday of each month between 11:00 to 1:00 p.m. commencing from December, 2021 till the appeals are disposed of.

7. All the applications are disposed of in the aforesaid terms.

NEETA
SHAILESH
SAWANT

(Sandeep K. Shinde, J.)

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