

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 313 OF 2022
IN
CRIMINAL APPEAL NO.1425 OF 2019

Srichandu Suprapaneni .. Applicant
v/s.
L & T Finance Limited
& Another .. Respondents.

Shri Gaurav Parkar i/b. Shri V. M. Dahake, for the Applicant.
Mr. Yashpal M. Thakur, for Respondent No.1.
Mr. H. J. Dedhia, APP for the Respondent-State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 25th JANUARY, 2022

PER COURT:

1. This is an application for bail preferred by Applicant, who has been in custody from 20th January, 2022.

2. The Applicant was prosecuted for the offences punishable under Section 138 of the Negotiable Instrument Act. He was acquitted vide Judgment and order dated 2nd January 2019. The complainant had preferred an appeal, challenging judgment of acquittal before this Court. The said appeal was admitted. The said appeal came up for hearing on 24th September, 2019 and leave was granted. Appeal was admitted on 24th September, 2019 and action

under Section 390 of Cr. Procedure Code was directed. It was also directed that Respondent – Accused shall mark his presence before the learned Magistrate i.e. 33rd Ballard Pier, Mumbai within four weeks and he shall be enlarged on bail on furnishing bail to the satisfaction of the learned Magistrate. Respondent was further directed to give undertaking that he shall appear before the Court once in a six month on the date assigned by the learned Magistrate and upon failure to attend any two consecutive dates, the learned Magistrate shall make report to the High Court and the prosecution will be at liberty to seek cancellation of bail.

3. In pursuance to the aforesaid order, the applicant had appeared before the learned Magistrate and executed bail bond on 20th October, 2019. He was released on PR bond/ cash bond. The PR bond indicates that applicant was to give an undertaking that he will attend the Trial Court once in a six month on the date of assigned by learned Magistrate.

4. Learned Advocate for the applicant submitted that date was not assigned for appearing before the Trial Court and on account of lock-down due to pandemic, the applicant did not attend the Trial Court. Applicant, thereafter, learnt that non-bailable warrant has been issued against the applicant by this

Court. The applicant appeared before the Trial Court on 20th January, 2022 and preferred an application for bail. The said application was rejected vide order dated 20th January, 2022. Immediately thereafter, applicant preferred another application before the Court of learned Magistrate, seeking bail, indicating that the directions under Section 390 of Cr. P.C. were not complied. Learned Magistrate by order dated 24th January, 2022 rejected the said application. The applicant has been taken in custody on 20th January, 2022. He continues to be in custody.

5. Learned Advocate for the applicant submitted that the learned Magistrate ought to have granted bail to the applicant under the misconception that the applicant had not complied the conditions of attendance as stipulated in the order dated 24th September, 2019, the applicant has been taken in custody.

6. Learned Advocate for Respondent No.1 submitted that the applicant's bail was rejected on account of non-compliance of the condition of giving an undertaking that Accused would appear before the Trial Court once in a six months on the date assigned by the learned Magistrate and that the applicant was supposed to appear before the Trial Court.

7. It is apparent from the order passed by the learned

Magistrate and the warrant issued against the applicant, it does not appear that the report was submitted by the Trial Court to the High Court about non-compliance of giving undertaking or appearing before the Trial Court once in a six months. In fact, the bond was executed in accordance under Section 390 of Cr. P. C. which also indicated that applicant has to undertake to appear before the Trial Court once in a six months in accordance with the order of this Court. No date was specified as to when the applicant shall appear before the Court in accordance with the order of this Court. It appears that the warrant was issued from Registry of this Court in accordance with order dated 24th September, 2019.

8. The complainant had submitted before the Trial Court that the Accused be released on bail subject to condition that he should furnish P R bond and surety.

9. It is noted that the applicant is in custody on account of the fact that the appeal against acquittal has been admitted by this Court and action of 390 Cr. P. C. was initiated against him. In fact, applicant had already executed the bail bond in relation to action 390 of Cr. P. C.

10. Considering all these aforesaid circumstances, this application deserves to be allowed.

ORDER

- i.** Interim Application No. 313 of 2022 is allowed;
- ii.** The applicant is directed to be released on bail on executing P R Bond in the sum of Rs. 15,000/- with one or more sureties in the like amount;
- iii.** The applicant is permitted to furnish cash bail in the sum of Rs.15,000/- for a period of ten weeks in lieu of surety.
- iv.** The Trial Court shall accept the cash bail immediately.
- v.** Interim Application stands disposed of accordingly.

11 The parties shall act on authenticated copy of this order.

(PRAKASH D. NAIK, J.)