

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO.798 OF 2022

Hans Travels Pvt. Ltd.

Through its authorised representative

Sanjay Gurumukhdas Narang

...Petitioner

Versus

State of Maharashtra

...Respondent

Mr. Saurabh V. Patil, for the Petitioner.

Ms. P. P. Shinde, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 23rd MARCH 2022

P.C. :

1. Heard learned counsel for the parties.
2. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal. Learned APP waives notice for respondent – State.
3. By this petition, the petitioner seeks relaxation of the condition set out in clause - 'D' of para 9, of the order dated 20th December

2021, passed by the learned Special Judge, N.D.P.S. City Civil & Sessions Court, Greater Bombay (C.R. 42) in NDPS Miscellaneous Application No.1305 of 2021.

4. The condition of which relaxation is sought, reads thus:-

“9.

D. The Applicant shall furnish bank guarantee in the sum of Rs.30,00,000/- (in words Thirty Lakhs only) against the Passenger Sleeper Bus bearing Registration No. MP-09-PA-0271 having Chasis No.MEC3476EGKP088694, having Engine No.400956D0089541 which was seized by the sleuth of Shivaji Nagar Police Station seized in C.R. No. 224/2021.”

5. The grievance of the learned counsel for the petitioner is when the trial Court had directed that the vehicle be handed over to the petitioner on execution of Supratnama cum Indemnity bond of Rs.35,00,000/-, with the Investigating Officer, Shivaji Nagar Police Station on nonjudicial stamp of Rs.500/-, there was no reason for the learned Judge to also direct the petitioner to furnish bank guarantee in the sum of Rs.30,00,000/-.

6. Perused the papers. Admittedly, the petitioner is the lawful owner of the transport bus bearing registration No. MP-09-PA-0271 i.e. the

Passenger Sleeper Bus The said vehicle was seized by the police in connection with C.R.No. 224 of 2021, as allegedly the said vehicle was used in the commission of the said offence i.e. for transporting of contraband in the said vehicle. Since the petitioner's vehicle was seized, the petitioner filed an application under Section 451 of the Code of Criminal Procedure and sought release of the said vehicle. The investigating officer informed the Court that the police did not require the custody of the said vehicle anymore. The said application filed by the petitioner seeking interim custody of his vehicle was partly allowed by the learned Special Judge vide order dated 20th December 2021, on certain terms and conditions. A perusal of the order dated 20th December 2021 in particular the operative part of the order shows that several conditions have been imposed by the learned Judge whilst partly allowing the said application seeking release of the aforesaid vehicle including the condition of execution of Supratnama cum Indemnity bond of Rs.35,00,000/-. Therefore, in the facts having regard to the same, the condition to also furnish a bank guarantee in the sum of Rs.30,00,000/- appears to be harsh. Admittedly, the petitioner is not an accused in the said case.

7. Having regard to the peculiar facts of this case, the condition set out in clause - 'D' of para 9, of the order dated 20th December 2021, passed by the learned Special Judge, N.D.P.S. City Civil & Sessions Court, Greater Bombay (C.R. 42) in NDPS Miscellaneous Application No.1305 of 2021, stands relaxed. Rest of the conditions imposed vide the said order dated 20th December 2021, to remain as it is.

8. Petition is allowed and disposed of in above terms. Rule is made absolute in the aforesaid terms.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.