

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

***CRIMINAL INTERIM APPLICATION NO. 1658 OF 2022
IN
CRIMINAL APPEAL NO. 174 OF 2004***

Vipul Manubhai Patel ...Applicant
Versus
The State of Maharashtra ...Respondent

Ms. Paavani Chadha a/w Mr. Hrishikesh Mundargi for the Applicant

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

**CORAM : REVATI MOHITE DERE &
V. G. BISHT, JJ.
THURSDAY, 9th JUNE 2022**

P.C. :

- 1 Heard learned counsel for the parties.
- 2 By this interim application, the applicant seeks his enlargement on bail.
- 3 Perused the papers. It appears that the applicant along with another co-accused, was prosecuted in connection with C.R No. I-21 of

2003 registered with the Kashmir Police Station for the alleged offences punishable under Sections 302, 201 r/w 120B of the Indian Penal Code. The applicant along with another co-accused, after a full-fledged trial, were acquitted of all the said offences, with which they were charged.

4 Being aggrieved by the said Judgment and Order of acquittal, the respondent-State of Maharashtra preferred the aforesaid appeal i.e. Criminal Appeal No. 174 of 2004. The said appeal referred by the State was admitted by this Court on 4th October 2004 and action under Section 390 of the Criminal Procedure Code was taken as against the accused i.e. including the applicant. Accordingly, the applicant furnished bail in the trial Court. It appears that thereafter, the aforesaid criminal appeal came up on the final hearing board, sometime in 2020. It appears that in the interregnum, after the admission of the aforesaid appeal i.e. in 2004 and when the aforesaid appeal came up on board, the applicant had moved to United Kingdom ('U.K') from Gujarat, where he was originally residing. As the applicant and co-accused failed to appear before this Court, non-bailable warrants were issued as against the applicant and co-accused Pradnesh Mahendrakumar Desai. Thereafter, a Look Out Notice was issued

against the applicant. It appears that co-accused Pradnesh Desai was apprehended in Gujarat and was taken into custody and was subsequently, enlarged on bail by this Court vide order dated 9th March 2021. The said order is on page 14 of the application. As the applicant was in U.K, a Look Out Notice was issued and a Proclamation was also issued. It appears that pursuant to the Look Out Notice, the applicant was apprehended in Czech Republic on 25th November 2021. It appears that the applicant was extradited to India and is in custody since 27th May 2022.

5 Learned counsel for the applicant submits that it was never the intention of the applicant to flee the country or to abscond. Learned counsel for the applicant submits that the applicant was initially residing in Gujarat and for better prospects, moved to U. K, and is now a citizen of U. K. She submits that the applicant was unaware that the said appeal was listed. She further submits that even the lawyer engaged by the applicant was unaware of the applicant's address and telephone number, as the applicant had failed to update his advocate with his new address and contact details. Learned counsel submits that there was some communication gap between the applicant's advocate and the applicant, resulting in non-bailable warrant

being issued by this Court in the aforesaid appeal and subsequently proclamation and Look Out Notice. She further submits that the applicant will abide by all the conditions that may be imposed by this Court.

6 It is not in dispute, that co-accused Pradnesh Desai, against whom, non-bailable warrant was issued, was also arrested and subsequently released on bail by this Court vide order dated 9th March 2021, on certain terms and conditions.

7 We are informed that the applicant's passport has been seized by the Czech Republic and as such the applicant is unable to travel out India presently. We are also informed that the applicant is suffering from skin cancer and is required to take regular medical treatment for the same.

8 In the facts, since the applicant has undertaken to abide by all the conditions that may be imposed by this Court and to remain present before this Court as and when directed and has also undertaken to furnish all details with respect to his address and contact details, we deem it appropriate to allow the application and enlarge the applicant on bail on the

following terms and conditions:

ORDER

- i) The applicant be released on cash bail in the sum of Rs. 25,000/-, for a period of six weeks;
- ii) The applicant shall within the said period of six weeks, furnish P. R. Bond in the sum of Rs. 25,000/-, with one or more local sureties in the like amount;
- iii) The applicant shall report to Vadodra Nagar Police Station on every Sunday from 10:00 a.m to 12:00 noon, initially for a period of six months; thereafter, once a fortnight for 6 months; and thereafter, on the first Sunday of every month, till the applicant's appeal is finally disposed of.
- iv) The applicant shall not leave the country without the permission of this Court;

v) The applicant shall remain present before this Court at the time of final hearing of the aforesaid appeal.

vi) An undertaking to the aforesaid clauses (iii) to (v), shall be filed by the applicant, in the Registry of this Court, within two weeks of his release.

9 The Interim Application is allowed and disposed of in above terms.

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

V. G. BISHT, J.

REVATI MOHITE DERE, J.