

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3456 OF 2022

Awlencan Innovations India Ltd.

Through Shri. Harvinder Kumar Sedha ...Petitioner

V/s.

State of Maharashtra

...Respondent

Mr. Kushal Mor a/w Mr. Kunal Bilaney, Mr. Dimesh Lochan i/by
Nishith Desai Associates for Petitioner.

Mr. S. S. Pednekar, APP for Respondent (State).

CORAM : AMIT BORKAR, J.

DATE : OCTOBER 20, 2022

PC.:

1. By this Petition under Article 227 of the Constitution of India, the petitioner is challenging order dated 6th September 2022, passed by the learned Sessions Judge in Criminal Revision Application No.59 of 2022 to the extend of Condition No.2A in the order thereby directing bank guarantee for the amount.

2. Petitioner had filed an application under Section 102 read with 457 of Code of Criminal Procedure, 1973, seeking direction to refreeze his bank account.

3. Learned Magistrate in paragraph nos. 11 and 12 recorded categorical findings that the applicant-company has no nexus with the crime in relation to which the bank account was freezed. However, learned Magistrate imposed a condition of

furnishing bank guarantee equivalent to the amount lying in the bank.

4. The said order was challenged before the learned Sessions Judge. The learned Sessions Judge by impugned order modified the order of Magistrate to the extend of directing petitioner to furnish solvent surety bond to the tune of Rs.31,15,00,000/-.

5. It is clause 3 of the order passed by Revisional Court directing the petitioner to furnish solvent surety bond is the subject matter of the present Petition.

6. On perusal of the order, it appears that both the courts below have recorded a finding that the applicant-company has no nexus with the proceeds of crime. Once such finding is recorded by the Courts below, the additional condition in the nature of direction to furnish solvent surety bond would in my opinion be unreasonable condition. Once the court found that the property of the petitioner has no nexus with the proceeds of crime, ordinarily direction to defreeze account should follow. However, in the exceptional case, for the reasons especially recorded, if the Courts are of the opinion that there is likelihood that the investigating agency may get certain material in future, reasonable condition to secure such proceeds can be imposed. However, in the facts of the case, the imposition condition of solvent security bond to the solvent surety bond to the extend of Rs.31,15,00,000/- is unreasonable. Therefore, in my opinion, imposition of said condition cannot be sustained. Hence, the following order is passed:-

Clause 2(a) of order dated 24.6. 2022 on O M A No. 691 / 2022 is set aside subject to filing of undertaking before this Court that in case the trial court after full fledged trial holds that the property of the petitioner has nexus with the proceeds of crime, he will redeposit the amount to the extent the trial court directs the petitioner .

7. Rule is made partly absolute in the above terms.

(AMIT BORKAR, J.)