

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

CRIMINAL WRIT PETITION NO.6160 OF 2021

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|---|----------------|
| 1. M/s. Om Dhar Engineers & Contractors
Pvt. Ltd. - A Company | |
| 2. K. Dharmesh Kumar - Director | |
| 3. K. Rambabu – Director | |
| 4. Rajesh Kumar – Director | ...Petitioners |
| Versus | |
| 1. Pavankumar Nagraj Mehta,
Proprietor of Rose Metal
through Suraj Pavankumar Mehta | |
| 2. The State of Maharashtra | ...Respondents |

Ms. Gulestan Mehernosh Dubash for the Petitioners

Mr. A. R. Patil, A.P.P for the Respondent No.2–State

CORAM : REVATI MOHITE DERE, J.
(THROUGH VIDEO-CONFERENCING)
TUESDAY, 25th JANUARY 2022

P.C. :

1 Heard learned counsel for the parties.

2 By this petition, the petitioners have impugned the order dated
27th August 2021 passed by the learned Additional Sessions Judge, Mumbai

in Criminal Miscellaneous Application No. 1020 of 2021, by which, the learned Judge was pleased to reject the petitioners' prayer to continue the provisional cash bail and directed the petitioners to furnish surety within three months from the date of the order.

3 Learned counsel for the petitioners submits that the petitioners are residents of Hyderabad and as such, due to the pandemic, are unable to furnish surety, as directed by the Appellate Court. She submits that even during trial, the petitioners were granted provisional cash bail and as such, the Appellate Court also ought to have continued the same.

4 During the course of arguments, learned counsel for the petitioners orally prayed that if the Court was not inclined to continue the provisional cash bail, the PR bond of Rs. 50,000/- each granted vide order dated 18th May 2021, be reduced to that of Rs.25000/- each, with one or two sureties in the like amount.

5 Learned A.P.P opposes the application.

6 Perused the papers. The petitioners, vide order dated 2nd February 2021, have been convicted for the offence punishable under Section 138 r/w Section 141 of the Negotiable Instruments Act by the learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai, in CC No. 4405/SS/2015. The petitioner Nos. 2 to 4 were sentenced to suffer SI for 6 months each, for the said offence and the petitioner Nos. 1 to 4 were directed to pay Rs. 32,40,000/- to the respondent No.1/complainant within three months from the date of the order, if not paid, interest @ 9% per annum was to be levied on the said amount, till its realization, in default, the petitioner Nos. 2 to 4 were directed to suffer SI for 2 months, each.

7 Being aggrieved by the said judgment and order of conviction and sentence, the petitioners preferred appeal before the learned Sessions Judge along with Criminal Miscellaneous Applications seeking suspension of sentence and cancellation of execution of sentence and an application for bail. The learned Sessions Judge vide order dated 18th May 2021, suspended the sentence, subject to payment of 20% of the amount and released the petitioners on furnishing P.R. bond in the sum of Rs. 50,000/- each, with one or two sureties in the like amount.

8 The Appellate Court, vide order dated 1st July 2021 released the petitioners on provisional cash bail of Rs. 50,000/- each and directed them to submit sureties within one month.

9 It appears that the petitioners have deposited the cash bail amount of Rs. 50,000/- each, in the Appellate Court. The petitioners are from Hyderabad and have been convicted for the offence punishable under Section 138 of the Negotiable Instruments Act. In order to secure their presence, it is necessary for them to furnish sureties.

10 It is informed that the direction to furnish sureties within three months from the date of order, has already expired. Learned counsel seeks extension of time to furnish sureties and for reduction of the surety amount. Accordingly the aforesaid petition is allowed on the following terms and conditions :

ORDER

(i) The order of the Appellate Court dated 18th May 2021 stands modified;

(ii) The release of the petitioners on cash bail is extended by a period of six weeks from today and the period to furnish sureties, is extended by a period of 6 weeks from today;

(iii) During the said period of six weeks, the petitioners to furnish P.R. Bond in the sum of Rs. 25,000/- each, with one or two sureties in the like amount.

11 Petition is disposed of in the aforesaid terms.

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

REVATI MOHITE DERE, J.