

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

**INTERIM APPLICATION NO. 4310 OF 2022
IN
CRIMINAL APPLICATION NO. 727 OF 2011
IN
CRIMINAL APPEAL NO. 509 OF 2011**

Hamid Sharifulla Sayyed	..Applicant
Versus	
S. M. Phansekar & Anr.	..Respondents

Mr. Aditya Singh i/b. Lalla and Lalla for Applicant.
Mr. Ashish Chavan a/w. Zishan Quazi a/w. Manuj Borkar for
Respondent/NCB.
Mr. S. R. Agarkar, APP for State/Respondent No.1.

CORAM : SARANG V. KOTWAL, J.
DATE : 22 FEBRUARY 2023

PC :

1. The applicant has preferred Criminal Appeal No.509 of 2011 challenging his conviction in Special Case (NDPS) No.7 of 2008 before learned Additional Sessions Judge, Thane. The Appeal was admitted and he was granted bail vide order dated 19/09/2011 passed in Criminal Application No. 727 of 2011. While granting bail to the applicant, a condition was imposed on him that, he shall attend the office of N.C.B. on first Monday of

every month pending his appeal. This application is preferred for relaxing / revoking that condition.

2. The applicant had earlier made a similar application vide I.A.No.1 of 2019 in Criminal Application No.727 of 2011 in Criminal Appeal No.509 of 2011 for the similar relief. That application was rejected vide order dated 21/02/2020. After that order, now more than three years have passed and a fresh application is made.

3. I have considered the submissions made by both; learned counsel for the applicant, as well as, for the Respondent No.1. The bail order was passed at the first instance in the year 2011. Learned counsel for the Respondent No.1 states on instructions that the applicant has diligently followed that condition and has reported on first Monday of every month. That period is quite long. For more than 11 years the applicant is diligently following this condition. He has sufficiently established his bonafide. Learned counsel for the applicant submitted that it is already mentioned in the application that, the applicant is a rickshaw

driver and every time when he has to attend the NCB office, he loses his income. This also is a ground which is required to be taken into consideration. Since the applicant has diligently complied with the condition imposed and since more than 11 years have passed, I am inclined to relax that condition. However, instead of totally deleting that condition, it can be modified to a certain extent. In my opinion, permitting the applicant to report once in six months till final disposal of the appeal will serve the purpose. The appeal is not likely to be decided within near future.

4. Hence, the following order:

O R D E R

- i) The order dated 19/09/2011 passed in Criminal Application No.727 of 2011 in Criminal Appeal No.509 of 2011 is modified.
- ii) The applicant is permitted to attend the N.C.B's office once in six months till final disposal of the Criminal Appeal No.509 of 2011.

iii) The rest of the conditions mentioned in the order dated 19/09/2011 are retained as they are.

iv) The Application is disposed of.

(SARANG V. KOTWAL, J.)