IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPLICATION NO. 3 OF 2024

Raghav s/o. Anil Kapoor	…	Applicant
vs.		
The State of Maharashtra	…	Respondent

Mr. Aamir Malik a/w. Zoheb Shaikh for applicant.

Mr. Mayur S. Sonavane, APP for respondent-State.

Mr. Sopan A. Nangare, PI, Banking-1 E.O.W.

CORAM : MANISH PITALE, J.
DATE : 14th AUGUST, 2024

P.C. :

. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. The present application is moved seeking the following reliefs:

> "A. that this Hon'ble Court be pleased to extend the time for furnishing the surety on such terms and for such period as this Hon'ble Court may deem fit and proper.
>
> B. that this Hon'ble Court be pleased to modify the conditions of furnishing solvent surety of 10,00,000/- (Ten Lakhs) imposed on the Applicant by the Learned Sessions Judge while granting Bail to the Applicant in Cr No 132 of 2022 by order dated 28.03.2023 to one or more regular sureties of a reasonable amount;"

3. The learned counsel for the applicant submits that the applicant is facing prosecution in two cases, one arising out of FIR No.51 of 2020 and the

other arising out of FIR No.132 of 2022.

4. It is submitted that in respect of both the cases, by different orders, the Sessions Court has granted bail to the applicant and in the process, specific condition has been imposed of furnishing solvent surety for an amount of ₹10 lakhs. It is brought to the notice of this Court that in both cases, on furnishing cash surety, while arranging for solvent sureties of the said amount, the applicant was enlarged on bail. He was able to arrange for solvent surety in respect of case arising out of FIR No.51 of 2020 and the said solvent surety certificate dated 22.05.2023 of ₹ 10 lakhs is annexed at Exhibit F to the application.

5. It is submitted that having submitted the solvent surety certificate in one of the cases, this Court may consider exempting the applicant from furnishing solvent surety of the like amount in respect of case arising from FIR No.132 of 2022. It is submitted that the requirement of furnishing further such solvent surety is working as an onerous condition against the applicant.

6. The learned APP, on the other hand, submitted that the fraud allegedly committed by the applicant in these two cases may go to the extent of ₹ 30 crores and therefore, the aforesaid condition cannot be said to be onerous and hence, the application may be dismissed.

7. This Court has perused the two orders passed by the Sessions Court. In both these cases, while granting bail to the applicant, it is recorded that the alleged amount of fraud is *prima facie* secured by the mortgages executed in respect of the properties and attachments of such properties in proceedings

pending before the Debts Recovery Tribunal.

8. The said findings are relevant for the purpose of the present application. This Court is of the opinion that since the applicant has submitted solvent surety certificate for an amount of ₹ 10 lakhs at Exhibit F in respect of case arising out of FIR No.51 of 2020, coupled with the fact that the Sessions Court itself has recorded in its orders that the amount pertaining to the alleged fraud *prima facie* appears to be secured, a case is indeed made out by the applicant for allowing the present application.

9. Since this Court is inclined to waive the requirement of furnishing solvent surety certificate of ₹ 10 lakhs in respect of case arising out of FIR No.132 of 2022, there is no necessity to consider the prayer seeking extension of time for furnishing such surety.

10. In view of the above, the application is allowed by waiving the requirement specified by the Sessions Court in its order dated 28.03.2023 of furnishing solvent surety to the extent of ₹ 10 lakhs. In that light, the applicant is permitted to withdraw the cash bail surety furnished, in respect of the said order.

(MANISH PITALE, J)

Priya Kambli