

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.2909 OF 2024
IN
BAIL APPLICATION NO.1981 OF 2023

Roland Victor Monterio ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Dinesh Jadhvani a/w. Mr. Prashant Pandey i/b. W3Legal LLP for Applicant.
Mr. Sagar R. Agarkar, APP for Respondent-State.
Mr. Kailash Mohan Chavan, PSI, Vikhroli Police Station.

CORAM : MANISH PITALE, J.
DATE : SEPTEMBER 12, 2024

P.C. :

. Heard Mr. Jadhvani, learned counsel for the applicant and Mr. Agarkar, learned APP for the respondent-State.

2. The applicant has approached this Court seeking modification of condition imposed in the order dated 11.01.2024 passed in Bail Application No.1981 of 2023, whereby he was granted bail. It is submitted that subsequently, by an order dated 30.04.2024, the applicant was permitted to furnish cash security in lieu of surety for the period of four weeks.

3. It is emphasized that since the applicant was unable to arrange for sureties in terms of the order dated 11.01.2024, it was only after the subsequent order dated 30.04.2024 that he could come out of jail on 18.05.2024. It is submitted that thereafter, the applicant has made efforts but he is unable to arrange for sureties. It is submitted that the applicant has abided by condition (iii) of the said order and he attended the police station on first Monday of every month till framing of charges and even

thereafter. It is submitted that the applicant is ready to abide by the said condition till completion of trial and this Court may emphasize upon condition (vi) to regularly attend the proceedings before the concerned court.

4. Reference is made to the order dated **31.01.2023** passed by the Supreme Court in **SMWP (Criminal) No.4 of 2021** (*In Re Policy Strategy for Grant of Bail*), whereby the Supreme Court has expressed concern about under-trials languishing in jail due to their inability to abide by conditions imposed in Court orders granting bail. Reliance is also placed on the judgement and order of the Delhi High Court dated **16.01.2023** in **Criminal M.C.No.4878 of 2022** [*Kapil s/o. Harprashad Vs. State (NCT of Delhi)*], whereby the Delhi High Court exempted the accused from furnishing surety and instead directed his release on bail only on a personal bond of Rs.10,000/-.

5. The learned APP submits that this Court has already shown indulgence to the applicant by order dated 30.04.2024, permitting him to furnish cash security in lieu of surety for the period of four weeks. The concern of the learned APP is that if the applicant fails to abide by the conditions and there are no sureties provided, it may lead to a situation where the applicant would not be available for trial and the trial itself may be derailed.

6. This Court has considered the rival submissions. The Supreme Court has indeed expressed its concern in its order in the case of **In Re Policy Strategy for Grant of Bail** (*supra*) about accused persons, continuing to languish in jail due to their inability to abide by conditions imposed while granting bail. The Delhi High Court in the case of **Kapil s/o. Harprashad Vs. State (NCT of Delhi)** (*supra*) went to the extent of completely relaxing the requirement of furnishing sureties and directed only a personal bond of Rs.10,000/- to be furnished to the satisfaction of

the concerned Court as a pre-condition for release. In the present case, the applicant has expressed his inability to furnish one or two sureties in terms of condition (ii) of the order dated 11.01.2024 granting him bail. It is submitted that despite the indulgence shown by order dated 30.04.2024, permitting cash security in lieu of surety for a period of four weeks, the applicant is unable to arrange for sureties.

7. While the concern expressed by the learned APP is well founded, it cannot be ignored that even in the present case, while the applicant was granted bail on 11.01.2024, he could come out of the jail only on 18.05.2024 i.e. after more than four months and that too, after the order dated 30.04.2024 was passed, permitting him to furnish cash security in lieu of surety. The applicant's continued languishing in jail would be of no avail, particularly when he has been granted bail on merits by the order dated 11.01.2024. The applicant has abided by conditions (iii) and (vi) of the said order. In fact, it is stated that he has continued to remain present before the police station on first Monday of every month, even after framing of charge by the concerned Court. If the prayer made in the present application is not granted, there is every possibility of action for cancellation of bail being initiated due to the failure on the part of the applicant in providing sureties in terms of the aforementioned condition of the said order. This would be a drastic consequence for the applicant and hence, in the facts and circumstances of the present case, this Court is inclined to exempt the applicant from providing sureties in terms of condition (ii) of the said order, subject to further stringent conditions being imposed.

8. In view of the above, the application is allowed in the following terms:-

- a. The applicant is exempted from providing sureties in terms of condition (ii) of the order dated 11.01.2024 passed in

Criminal Bail Application No.1981 of 2023;

- b. The applicant shall mark his presence before the concerned police station on first Monday of every month between 11:00 a.m. and 12 noon till completion of trial before the concerned Court;
 - c. The applicant shall attend proceedings before the concerned Court in the trial proceedings on each and every date, unless exempted for reasons to be recorded in writing.
9. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab