

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.4680 OF 2024

Abhay Narendra Lodha

.. Applicant

Versus

Directorate of Enforcement and Anr.

.. Respondents

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- Mr. Niranjana Mundargi a/w. Ms. Keral Mehta, Mr. Harish Khedkar, Mr. Nevil Chopra and Ms. Antara Kulkarni, Advocates i/by Naik Naik & Co. for Applicant.
- Ms. Neha Bhide, Special Public Prosecutor for Respondent No.1 - Directorate of Enforcement.
- Ms. Rajeshree V. Newton, APP for Respondent No.2 – State of Maharashtra.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 05, 2025

P.C.:

1. Heard Mr. Mundargi, learned Advocate for Applicant; Ms. Bhide, learned Special Public Prosecutor for Respondent No.1 - Directorate of Enforcement and Ms. Newton, learned APP for Respondent No.2 – State of Maharashtra.

2. This Interim Application seeks deletion of the bracketed onerous condition in the Bail order dated 10.09.2024 being condition No. 14(B) passed by this Court. The said condition reads thus:-

“14...

(A)...

(B) *[The applicant shall remain within the jurisdiction of Greater Bombay during the pendency of the proceedings before the Special PMLA Court] and he shall not comment upon or discuss any matter*

related to the proceeding arising out of the aforesaid ECIR in media or social media during the pendency of the proceedings;

...”

3. Mr. Mundargi would submit that considering the profile, business prospects, the place of residence of Applicant’s immediate relatives being outside the city of Mumbai, the said condition is *prima facie* onerous. He would submit that Applicant has deep roots in the Society and would abide by any such condition which would not require the Applicant to repeatedly approach the Trial Court and seek permission for moving out of city of Mumbai if required to do so for work prospects or to meet his mother who lives in Pune or to move around in India in general.

4. Ms. Bhide, learned Special Public Prosecutor would submit that considering the indictment of Applicant in the crime in question, the only anxiety is that if he is allowed to travel outside city of Mumbai he would probably impair proceedings in the Trial as also he would be a flight risk.

5. I have considered the submissions and grounds in the Application. *Prima facie*, it is seen that any condition while granting bail ought not to be onerous to such an extent that it would defeat the purpose of granting bail. The ethos and essence of bail has been laid down as far back as in the year 1923 in the case of ***Nagendra Nath***

*Chakrabarthy Vs. King-Emperor*¹ by the Calcutta High Court wherein it has been stated that the real purpose of granting bail is to ensure and secure presence of Applicant for conduct of trial before Trial Court and if that purpose is seen to be served then in that case bail should be granted.

6. Considering the deep roots of Applicant in the Society, the Application made before the Court and the grounds stated therein deserves it consideration. In today's time jurisdictional territorial borders either of the country or international borders are such that parties are required to travel consistently either for their future prospects or other related purposes.

7. Here is the case of Applicant before me who is a businessman in the Steel Industry and to impose the subject condition on him to repeatedly come before the Trial Court and seek permission to travel outside the territorial jurisdiction of the city of Mumbai is on the face of record onerous. It not only dents future prospects of Applicant in question but considering the present exigency in the legal system, it involves substantial delay after approaching the Court of law for seeking permission for placing the Application and for hearing and deciding the said Application by which time the real essence and purpose for which the Applicant desires to travel is sometimes lost.

¹ 1978 (1) SCC 240.

8. One of the grievance expressed by Mr. Mundargi is that mother of Applicant lives in Pune and as and when she is unwell, Applicant is required to travel to Pune. It would be a ridiculous proposition if Applicant is required to approach the Trial Court every now and then to seek permission to travel outside city of Mumbai to visit his own mother or to travel elsewhere in India for business related work. It would rather defeat the entire purpose of the order of bail.

9. In view of my above observations and also ensuring that the concern expressed by Ms. Bhide, learned Special Public Prosecutor is taken care of. The bracketed portion in condition No.14(B) stands deleted as under:-

“14...

(A)...

(B) *[The applicant shall remain within the jurisdiction of Greater Bombay during the pendency of the proceedings before the Special PMLA Court and] he shall not comment upon or discuss any matter related to the proceeding arising out of the aforesaid ECIR in media or social media during the pendency of the proceedings;*

...”

10. Rest of the portion of condition No.14(B) is retained as it is.

11. However, it is directed that Applicant shall always intimate the details of his travel itinerary and all such details to the concerned Investigating Officer of Directorate of Enforcement as and when he travels out of Mumbai and in case he travels in an exigency he shall

ensure that the said details are conveyed to the concerned Investigating Officer of Directorate of Enforcement immediately after he undertakes the travel within 2 days of his travel and shall also inform the details of his return and stay outside Mumbai.

12. Needless to state that if Applicant desires to travel abroad he shall take permission of the Trial Court for such travel, and in the event if any such Application is made to the Trial Court, the Trial Court shall without delay determine such Application expeditiously in accordance with law.

13. In terms of above directions, Interim Application is disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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by HARSHADA
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