

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPLICATION NO.72 OF 2025

Johny Fransis Dsouza

.. Applicant

Versus

State of Maharashtra

.. Respondent

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- Ms. Ashwini Achari, Advocate for Applicant appointed through legal aid.
- Ms. Megha S. Bajoria, APP for Respondent.
- PSI – Ravindra Vinayak Kelkar, V. B. Nagar Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 02, 2025

P.C.:

1. Heard Ms. Achari, learned Advocate for Applicant and Ms. Bajoria, learned APP for Respondent.

2. The order dated 28.03.2025 appointed Ms. Achari to appear on that date before this Court through the legal aid on behalf of Applicant to represent and espouse his cause.

3. I am informed that legal aid has not given her appointment order till date. It may be because of the impending holidays in between. Legal Aid Department is directed to ensure that the appointment letter is given to Ms. Achari forthwith.

4. Hearing in the present Application cannot be protracted any further considering the exigency involved. Application before the Court is received through jail seeking relaxation of the condition for

furnishing surety of Rs.20,000/- by the Applicant who is languishing in jail despite bail having been granted to him more than three years ago. It is *prima facie* a very sorry state of affairs.

5. Briefly stated, Applicant was granted bail on 30.12.2021 and in that bail order a condition was incorporated requiring Applicant to pay surety amount of Rs.50,000/-. Applicant could not comply with the said condition and therefore remained in jail. Thereafter, Applicant made an Application before the Trial Court rather several Applications before the Trial Court under various exhibits which were considered by the Trial Court for reducing the amount of the surety bond so that Applicant could exercise his right and be released on bail, but he failed.

6. Even after the Trial Court reduced the amount to Rs.20,000/-, the case of Applicant is that he is still unable to meet that amount also which has resulted in him languishing in jail till today.

7. Ms. Achari, learned appointed Advocate for Applicant has placed before the Court various orders passed by the Trial Court. First is order dated 30.12.2021 under which Applicant was directed to be released on bail on furnishing P.R.Bond of Rs.50,000/-. Thereafter order dated 24.07.2024 passed by the learned Trial Court in Applications below Exhibits-6 and 7 reveal that said clause (2) of the bail order dated 30.12.2021 is modified and amount of surety bond is reduced to Rs.20,000/-. The third order is dated 10.02.2025 wherein

Application filed below Exhibit-8 by Applicant has stood rejected for waiver of the said amount. Application below Exhibit-8 was filed by Applicant requesting Trial Court to release him on P.R.Bond and that he should be given some time to arrange sureties after he is released from prison. This Application was filed because Applicant was unable to arrange the amount of surety bond of Rs.20,000/- granted by Trial Court earlier. The learned Trial Court rejected the Application on the ground that the nature of offence and crime is serious and if Applicant is released on a personal bond there is every likelihood of him absconding which would frustrate the trial.

8. I have perused the record of the case, which is evident from the above orders. *Prima facie*, it is seen that the order of bail itself stands frustrated if Applicant's Application is not considered by the Court. On the one hand Applicant is incarcerated for more than three years and four months despite being granted bail and on the other hand though Applicant has been granted bail he is unable to meet the onerous bail condition due to his condition.

9. In the above circumstances, I am of the opinion that the request made by Applicant in his Application which has been addressed to the Court by post can be considered. Application / letter was addressed on 29.12.2024 and Application has been decided today after it was heard for the first time on 28.03.2025.

10. In view of the above facts and circumstances in the present case, I am of the opinion that Applicant's request needs to be allowed by the Court otherwise the ethos and essence of granting bail will be lost completely. In that view of the matter, clause (2) of the order dated 30.12.2021 shall stand modified as under:-

*“2. The applicant **Johny Fransis D’Souza** being accused in C.R.No. 52/2021 registered with V. B. Nagar Police Station for the offences punishable under Sections 8(c) read with Section 22(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 be released on furnishing P.R. Bond of Rs.10,000/- (Rupees Ten Thousand Only). Applicant is directed to be released on filing a P.R.Bond as directed and he is permitted to file one or two sureties in the like amount of Rs.10,000/- with the Trial Court within a period of 8 weeks of his release from prison;”*

11. It is clarified that before his release Applicant is directed to file an undertaking in the form of an Affidavit disclosing the details of the place and person with whom he shall be residing with after his release on bail during the completion of the trial.

12. The present order shall be read alongwith the order dated 30.12.2021 passed by the learned Trial Court.

13. This Court appreciates the immediate assistance rendered by Ms. Achari, learned appointed Advocate for the Applicant at short

notice. Fees of the learned Advocate Ms. Achari appointed through the legal aid to represent and espouse the cause of Applicant shall be released by the Registry of this Court within a period of one week from the date of presentation of a server copy of this order on due compliance.

14. With the above directions, Application stands allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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