

HARSHADA H. SAWANT  
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

APPLICATION NO.114 OF 2025

Chinonso Udeju Nnamadi

.. Applicant

**Versus**

State of Maharashtra

.. Respondent

- .....
- Mr. Taraq Sayed a/w. Ms. Ashwini Achari, Advocates for Applicant.
  - Mr. Hitendra J. Dedhia, APP for Respondent.
- .....

**CORAM : MILIND N. JADHAV, J.**

**DATE : MARCH 25, 2025**

**P.C.:**

- 1.** Heard Mr. Sayed, learned Advocate for Applicant and Mr. Dedhia, learned APP for Respondent.
- 2.** After hearing learned Advocate for Applicant on 18.03.2025, the following order was passed:-

*“1. Mentioned at the time of rising of the Court.*

*2. Heard Ms. Achari, learned Advocate for Applicant and Mr. Dedhia, learned APP for Respondent – State.*

*3. Ms. Achari informs the Court that Applicant seeks modification and relaxation of the bail conditions in the order dated 21.05.2024 passed by the Sessions Court. It is an irony that despite bail order has been passed as far back as on 21.05.2024, Applicant who has been enlarged on bail is still languishing in jail.*

*3. The fact that the Applicant is foreigner does not create any difference to the Court since the Sessions Court has already exercised its power releasing the Applicant on bail on merits of the matter.*

*4. Be that as it may, Ms. Achari would submit that in so far as relaxation of condition ‘a’ is concerned, there is no averment made in the Application. Hence she would persuade the Court to permit her to make the necessary amendment to that effect in the Application. The said amendment is permitted to be carried out forthwith in the presence of the Court. Re-verification stands dispensed with.*

5. Next she would submit that Applicant seeks relaxation of condition 'b' wherein there is a direction to the Applicant to produce his valid passport and visa which he can only do after he is released on bail and it is possible only after two weeks after he is out of prison. That relaxation can undoubtedly be considered by the Court.

6. Next she would submit that condition 'f' is *prima facie* onerous on the face of record as it would be impossible for the Applicant to file an Affidavit to that effect as stated by the Sessions Court in the said condition. *Prima facie*, learned Advocate for the Applicant appears to be right on this count.

7. Next she would submit that similarly condition 'j' also is onerous as the concerned authority namely Embassy / High Commission of the country to which the Applicant belongs cannot give an assurance on his behalf that he shall not leave the country if released on bail. She would submit that Applicant shall give one or two solvent sureties in the like amount as directed by the Court. Hence she would seek deletion of the said condition. In so far as condition 'j' is concerned, learned Advocate for Applicant *prima facie* appears to be correct.

8. After carrying out the amendment as directed by this order, learned Advocate for Applicant is directed to serve the amended copy of the amended Application on the Respondent – State.

9. Mr. Dedhia, learned APP for the State shall take appropriate instructions on the aforesaid submissions delineated herein above by the learned Advocate for Applicant and accordingly apprise the Court on the next adjourned date about any objections to the same.

10. List the Bail Application on Board on **25<sup>th</sup> March, 2025**. To be placed under the caption '**First on Board**'."

4. Today Mr. Sayed appears for Applicant when the matter is called out.

5. After hearing both sides and considering the fact that Applicant is still languishing in jail despite he having been granted bail as on 21.05.2024, this Court is of the opinion that save and except condition No.(a) where reduction of amount is sought the other conditions can undoubtedly be modified considering the same are *prima facie* onerous.

**6.** Even in so far condition No.(a) is concerned, it is case of Applicant that he is not in position to deposit the amount of Rs.60,000/- which has kept him languishing in prison till date. Through his Advocate he has persuaded the Court to reduce the said amount to Rs. 25,000. Considering the request made by the Applicant which *prima facie* in my opinion appears to be a genuine request, the bail amount as stated in paragraph No.(a) stands reduced to Rs.25,000/- to enable the Applicant to get released on bail.

**7.** In so far as condition No.(b) is concerned, it is *prima facie* impossible to comply with since Applicant is already in jail. The said condition requires Applicant to be released subject to production of his valid passport and visa. Applicant does not have his valid passport and visa which is confiscated by the authorities. Hence condition No.(b) stands deleted. After his release, if Applicant applies for fresh passport in accordance with law and if he obtains a fresh passport, he shall deposit the same with the Sessions Court within a period of two weeks from the date of obtaining such fresh passport.

**8.** Once again in so far condition No.(f) is concerned, it is onerous on face of the record. Hence the same stands deleted.

**9.** In so far condition No.(j) is concerned, the said condition *prima facie* is onerous. No Embassy / High Commission of any Country can give a certificate of assurance and guarantee to the Court

as a condition of bail as contemplated by the said condition. Hence the same stands deleted.

**10.** In so far condition No.(k) is concerned, the same is also practically impossible for Applicant to comply with and hence it stands deleted. Needless to state that in terms of decision of the Supreme Court in the case of *Frank Vitus v. Narcotics Control Bureau & Ors*<sup>1</sup>, copy of this order is directed to be communicated to the concerned Foreign Registration Officer appointed under Rule 3 of the Registration of Foreigners Rules, 1992 within the meaning of the Foreigners Act, 1946.

**11.** The present order shall be read alongwith order dated 21.05.2024 for the purpose of releasing the Applicant on bail.

**12.** Application is allowed and disposed in the above terms.

H. H. SAWANT

[ MILIND N. JADHAV, J. ]

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<sup>1</sup> Criminal Appeal No. 2814-2815 of 2024 decided on 06.01.2025