

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI. APPLICATION NO. 1010 OF 2005

IN

Cri. Application No. 4513/ 2004

Veena Sharma & Ors.

..Applicants.

V/s.

The Director CBI, EOW, Mumbai & Anr.

..Respondents.

Mr.Mubin Solkar h/f.Amit A.Jambotkar for Applicants.

Shri Ejaz Khan for the CBI -Respondent No.1.

Shri A.S.Gadkari, APP for the Respondent No.2 -State.

CORAM : A.M.KHANWILKAR, J.

DATED : FEBRUARY 28, 2005

PC :-

. Heard counsel for the parties. Perused the application and the affidavits.

2. This application is for relaxing the condition imposed by this court in order dated 1st November, 2004. The applicants were granted bail by the lower court on certain conditions. The applicants had approached this court by way of criminal Application No. 4513/2004 for relaxation of the conditions imposed by the lower court. This court after considering the materials on record, modified the condition by reducing the personal bond in the sum of Rs. 50,000/- each instead of Rs. 1,00,000/-. It is

not necessary to advert to the other conditions referred to in the order dated 1st November, 2004 for the time being.

3. After this order was passed, the applicants were unable to comply with the condition of furnishing two local sureties in the like amount. The applicants, accordingly, have made the present application with a prayer that the applicants be permitted to furnish cash security or relax the conditions of requiring the applicants to furnish the "local" sureties.

4. This application is opposed by the respondents on the argument that the applicants have not complied with the conditions imposed in the order dated 1st November, 2004, which required them to regularly report to CBI, Economic Offence Wing, New Delhi. Besides, the applicants did not appear before the trial court on 17th November and 25th November, 2004 when the matter was fixed for hearing before that court and as a consequence, the trial court has issued non-bailable warrants against the applicants on 25th November, 2004 and formal warrants were issued on 1st December, 2004. Besides, it is argued that the applicants have not surrendered their pass -ports inspite of the condition (d) stated in the order dated

1st November, 2004.

5. Having considered the rival submissions and going through the affidavits as filed, I have no hesitation to observe that the objection raised on behalf of the respondents cannot be countenanced. In so far as, non-compliance of direction of surrendering the pass port is concerned, it is stated by the applicants on affidavit that except applicants Nos. 3 and 9, no other applicants have pass- ports and the pass-ports of applicants Nos. 3 and 9 are already in the custody of the Delhi Crime Branch. In so far as, the argument that the applicants failed to appear before the trial court on specified dates and issuance of non-bailable warrants against them on 25th November, 2004; I find substance in the argument of the applicants that apprehending arrest pursuant to the non-bailable warrants, the applicants did not comply with the requirement of reporting to the C.B.I. once in a fortnight from 1st November, 2004. To get over this position, counsel for the respondents submits that the applicants are not ordinarily residing at the place of the address furnished by them and they were not available on the said address during the informal inquiry made by the concerned officers.

It is stated that the applicants have left the said place without informing their present address to the concerned officer. Once again this objection is not supported by any record to show that the applicants are residents of some other place or that the address submitted by the applicants is false. On the other hand, the applicants have placed on record Xerox copies of the documents such as driving licence, ration card, gas connection to point out that the applicants are residents of F-1/A Radhe Puri, Delhi.

6. Accordingly, in my opinion, the applicants are entitled for relief as prayed for to the extent of relaxing condition, requiring them to give "local" surety. Instead, the applicants shall provide two sureties in the same amount of Rs.50,000/- each. Rest of the conditions in the order dated 1st November, 2004 will remain as it is.

7. It is made clear that the applicants will not be arrested pursuant to the non-bailable warrants for a period of one week from today to enable them to comply with the necessary bail formalities within that period.

8. Application is disposed of in the above terms.

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