

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
LD VC BAIL APPLICATION NO.49 of 2020

Mahesh B. Patil .. Applicant
Versus
The State of Maharashtra .. Respondent

...
Mr. Ghanshyam Upadhyay I/b Prakash Salsingikar for the applicant.
Mr.Sachin Thorat for the Intervenor.
Mr.Deepak Thakare, P.P with Mr.S.V. Gavand, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 8th MAY 2020.

P.C:-

1 On 23rd March 2020, the Hon'ble Apex Court issued directions for constitution of High Power Committee for dealing with the health crisis arising out of Covid-19 with regard to Prisons and Remand homes. Based on the said directives, the State of Maharashtra also constituted the High Power Committee and issued directions which have been placed on record by the learned counsel appearing for the applicant. The criteria has been laid down by the High Power Committee and it is decided that under-trial prisoners who have been booked/charged of offences for which maximum punishment is 7 years or less, be considered for being released on interim bail on Personal Bond of such amount as may be determined for a period of 45 days or till the State Government withdraws notification under the Epidemics Act, 1987 whichever is earlier. Certain exceptions have been made out where the guidelines will not apply which include the under-trial prisoners who are booked for serious economic offences/bank scams, and offences under Special Act like MCOCA, PMLA, MPID, NDPS, UAPA etc.

2 On the basis of these directives, the applicant preferred a representation to the Superintendent, Kalyan Jail which addressed a communication to the District and Sessions Judge to consider the said representation. Surprisingly, the Sessions Court rejected the application of the applicant on merits of the case and in paragraph no.7 has made a reference to the directive of the High Power Committee but it has observed that the temporary bail cannot be allowed as of right and need to be considered in light of the guidelines of the High Power Committee and the facts and circumstances in case and the possibility of adverse effect.

3 In paragraph no.7, the reasoning is cited by the Sessions Court that the charges against the accused may be minor but the incident is serious and releasing the accused on bail would cause adverse effect to prosecution's case. With this reasoning, the Bail Application has been rejected.

4 The question that arises is whether in the wake of the guidelines issued by the Government of Maharashtra, it is permissible for the Sessions Court to take a decision on merits particularly when case of a particular applicant do not fall within the exceptions framed out by the High Power Committee. The learned Public Prosecutor Mr.Thakare seeks one weeks time to ascertain the position and make a statement in this regard.

5 Stand over to 15th May 2020.

SMT. BHARATI DANGRE, J