

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 135 OF 2015

Prakash S/o Narayan Rathod

Age : 30 Yrs., Occ. Labour,

R/o : 301, Jesal Plaza,

Katrap Road, Near Saraswat

Bank, Badlapur [East], Thane,

M.S. 421 503, at present

residing at Kolwadi,

Tq.: Kannad, Dist. Aurangabad.

.... APPLICANT

V E R S U S

The State of Maharashtra

Through Police Station Kannad,

Tq.: Kannad, Dist. Aurangabad.

.... RESPONDENT

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Mr. S.K.Shirse, Advocate for Applicant.

Mr. V.H.Dighe, A.P.P. for Resp. - State.

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CORAM : V.M.DESHPANDE, J.

DATE OF JUDGMENT : 11th AUGUST, 2015

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ORAL JUDGMENT :

1. Rule. Rule is made returnable forthwith. Heard finally by the consent of the learned counsel for the parties.

2. Heard Mr. S.K.Shirse, learned counsel for Applicant and Mr. V.H.Dighe, learned A.P.P. for Respondent - State.

3. Challenge in this Revision is the Order dated 14/07/2015 below Exh. 1 in Criminal Misc. application No. 69/2015 passed by the learned Additional Sessions Judge, Aurangabad, which was filed by the present applicant seeking permission from the Court to leave the jurisdiction of Aurangabad district.

4. Present applicant is one of the accused in Crime No. 13/2015 registered with police station Kannad for the offences punishable u/s 420,468,470,471 read with 34 of the Indian Penal Code.

5. Applicant preferred application for regular bail

before this Court vide Criminal Application No. 891 of 2015. Similarly, other accused moved application for regular bail vide Criminal Application No. 867 of 2015. This Court on 02/03/2015 allowed the applications filed on behalf of applicant and co-accused and directed to release the applicants on bail on they depositing ₹ 50,000/- [Rupees Fifty Thousand] in the Court of the learned Magistrate. Also, one of the conditions was that he shall not leave Aurangabad district without prior permission from the Sessions Court till the disposal of the case.

6. Learned counsel for the applicant submitted that the applicant has already deposited ₹ 50,000/- [Rupees Fifty Thousand] as directed by this Court on 02/03/2015. There is no dispute on that count from the State.

7. Since the condition was imposed on the applicant to seek permission from the Sessions Court if he intends to leave Aurangabad district, he moved application before the learned Sessions Judge. Said application was registered as Criminal Misc. Application No. 69/2015. In paragraph 3 of the said application, applicant has stated that

prior to the registration of the crime, applicant was doing private service with AVNGGL Electrical at New Mumbai and he used to reside at 301, Jesal Plaza, Katrap road, Near Saraswat Bank, Badlapur [East], Thane, M.S. - 421 503. He submitted that presently he is unemployed and he wish to leave Aurangabad in order to take his old job at Thane. He has filed Adhar Card issued by the Govt. of India showing that he is resident of 301, Jesal Plaza, Katrap road, Near Saraswat Bank, Badlapur [East], Thane. He has also filed Induction Card issued by AVNGGL Electrical.

8. Application of the applicant is rejected on the ground that the charge sheet is not filed and the applicant has not filed any document to support his contention that he was employed at Mumbai and he was resident of Badlapur, Thane. Learned counsel for the applicant submitted that the Adhar Card and Induction Card which is placed on record before this Court, were already filed before the Court below.

9. Further, as per the prosecution, before the Court below there was no objection on the part of the prosecution to grant permission to leave Aurangabad district. However,

according to the prosecution, detail address has to be furnished.

10. After having gone through various papers which are placed before this Court, it is clear that the applicant has given his detail address at Badlapur and also his Induction Card. Applicant is required to leave Aurangabad district for securing his livelihood. The application can not be rejected merely because the Investigating Officer has not filed charge sheet before the Court below. In that view of the matter, order passed by the learned trial Court can not be sustained and the same needs to be set aside. That leads me to pass the following order.

ORDER

(i) Present Criminal Revision Application is allowed.

(ii) Order dated 14/07/2015 below Exh. 1 in Criminal Misc. application No. 69/2015 passed by the learned Additional Sessions Judge, Aurangabad is hereby quashed and set aside.

- (iii) Applicant is permitted to leave Aurangabad district.
- (iv) Applicant shall reside at 301, Jesal Plaza, Katrap road, Near Saraswat Bank, Badlapur [East], Thane.
- (v) Applicant shall report police station Badlapur, Thane once in a fortnight preferably on every Sunday between 3.00 – 5.00 p.m.
- (vi) Rule is made absolute in above terms.

[V.M.DESHPANDE, J.]