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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 233 OF 2015
IN
CRIMINAL BAIL APPLICATION NO. 1 OF 2014**

Bhojraj Meghraj Punjabi

... Applicant

VERSUS

State of Maharashtra and Anr.

... Respondents

...

Ms Trupti M. Khamkar, Advocate for the applicant

Mr. S. H. Yadav, APP for respondent/State

...

CORAM : **V. L. ACHLIYA, J.**DATE : 30th June, 2015.

Per Court:

. By this application, the applicant seeks relaxation of following condition imposed by this Court vide order dated 22nd January, 2014 passed in Criminal Bail Application No. 1 of 2014.

“(D) The Applicant shall not reside in the house/place where his wife, the first informant is residing.”

2. Learned Counsel for the applicant submits that, the condition imposed by the Court directing the applicant not to reside in his house, is causing great hardship to the applicant. The applicant is the owner of premises where his wife (complainant) is residing along

with other family members. According to the learned Counsel, the applicant is 73 years old and he has no other place for residence in Mumbai city. He has, therefore, urged to relax the aforesaid condition looking to age, ailments and hardship, which the applicant is facing due to the said condition.

3. Learned APP appearing for respondent / State has opposed the application with contention that, if the request is granted there is every likelihood that the applicant may assault the complainant and other family members.

4. Perusal of order dated 22nd January, 2014 reveals that, considering the over all facts of the case the Court has granted bail to the applicant by imposing condition to attend the police station on every 1st Sunday of each month between 10.00 a.m. to 12.00 noon, till the conclusion of the trial and further directed not to reside in the house where his wife is residing. The condition of not residing in the same house was imposed probably by keeping in mind that the immediate entry of the applicant in his house after release on bail may result into further quarrel between the applicant and the complainant. According to applicant, such condition to restrain a person from

entering into his own house is not justified under the facts and circumstances of the case.

5. The offence was registered on 11th May, 2013. The applicant was arrested on 30th May, 2013. He was released on bail on 22nd January, 2014. Charge-sheet was filed in the year 2013. Criminal case against the applicant is still pending. The applicant is 73 years old. He is the owner of the house. He has been dis-housed from his own house for a period of more than two years only for the reason that if the applicant enters into his house there is every likelihood of quarrel between the applicant and his wife. According to me, this cannot be a ground to prohibit the applicant from entering into his own house till conclusion of trial. I am, therefore, of the view that looking to the fact that the applicant is prevented from residing in his own house since last two years though released on bail, the condition needs to be relaxed. So far as likelihood of quarrel between the applicant and his wife is concerned, the police can take appropriate preventive measures against the applicant & his wife from committing any act amounting to breach of peace or commission of cognizable offence. I am, therefore, inclined to allow the application in terms of prayer clause "(i)" of the application. The condition imposed while granting

bail to the applicant vide order dated 22nd January, 2014 in Criminal Bail Application No. 1 of 2014 to the extent of restraining the applicant not to reside in the house/place where his wife, the first informant is residing, is hereby relaxed. The applicant is directed to ensure that no such incidence is repeated. Senior Police Inspector Pantnagar Police Station is directed to take all preventive measures so as to ensure that no such act of breach of peace or commission of cognizable offence committed by the applicant, complainant and his family members.

6. The application stands disposed of in above terms with no order as to costs.

7. The rest of the conditions imposed vide order dated 22nd January, 2014, to remain intact.

8. Parties to act on the basis of an authenticated copy of this order.

[V. L. ACHLIYA, J.]