

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

WRIT PETITION NO. 3414 OF 2017

Raju Laxman Khude

....Petitioner

Versus

The State of Maharashtra

....Respondent

Mr. Rupesh Zade for the petitioner.

Mr. S.V. Gavand, APP for the Respondent/State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 09th OCTOBER, 2017

P.C. :

1. Rule. Mr. S.V. Gavand, learned APP waives service of notice on behalf for the respondent/state. By this petition, the petitioner has sought relaxation of condition nos.2 and 6 imposed vide order dated 12th April, 2017 in Criminal Miscellaneous Application No. 123 of 2017.

2. Heard the learned counsel for the petitioner and the learned APP for the respondent/state. Perused the records.

3. It appears that the Crime No. 807 of 2017 has been registered against the applicant for illegal transportation of sand. The applicant has filed an application for release of truck bearing registration no. MH-12-EF-7141 which was used for transporting the sand. The said truck was released with certain conditions.

4. Being aggrieved by the conditions nos.2 and 6 of the order dated 12th April, 2017 passed by the Judicial Magistrate First Class, Tal.

Daund, Dist. Pune, the applicant had preferred revision application before the Sessions Court for relaxation of those two conditions. By condition no.2, the applicant was required to furnish indemnity bond to the tune of Rs.20,00,000/-. By condition no.6, the learned Magistrate directed to issue letter to Tahasildar, Daund to recover the penalty, if any, from the applicant.

5. A perusal of the judgment dated 17th July, 2017 reveals that the applicant herein had stated before the Additional Sessions Court, Baramati, Pune that he has no objection to condition no.2. His main objection was in respect of condition no.6. The learned Sessions Judge has rejected the said revision application stating that the Magistrate has not directed the Tahasildar to act in any particular manner under the order which states that the Tahasildar is required to recover the penalty in accordance with the law.

6. Aggrieved by the impugned order of the learned Sessions Court, the applicant has filed this petition. In the course of the hearing, the learned APP fairly concedes that the learned Magistrate was not justified in imposing condition no.6 in an application for release on bail filed by the applicant.

7. In the light of the said statement and also having considered the submissions of the learned counsel for the applicant, in my considered view, the said condition no.6 in the impugned order dated 12th April, 2017 cannot be sustained.

8. Hence to that extent, the Writ Petition No. 3414 of 2017 is allowed. The condition no.6 of the order dated 12th April, 2017 in Criminal Miscellaneous Application No. 123 of 2017 stands deleted.

(SMT. ANUJA PRABHUDESSAI, J.)