

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [APL] No.708 of 2018

Prashant s/o Sudhakar Rao Deshmukh & another

vs.

State of Maharashtra, through P.S.O. Frezarpura, Amravati

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri Vipul Bhise, Advocate for the Applicants.
Shri S.M. Ukey, A.P.P. for the Non-Applicant/State.

CORAM : S.B. SHUKRE, J.
DATE : 4th SEPTEMBER, 2018.

Heard.

Admit.

Heard finally by consent.

By this application, modification of the condition of the order granting anticipatory bail to the applicants has been sought. The condition sought to be modified is condition No.2 of the bail order, dated 15/06/2018. It told the applicants that they are refrained from entering the area in the vicinity of the job place and the residential place of the prosecution witnesses till final disposal of the case.

According to the learned Counsel for the applicants, this is an onerous condition which cannot be imposed while granting bail by the Courts. He has relied upon the law laid down by the Hon'ble Apex Court in the case of Kunal Kumar Tiwari @ Kunal Kumar vs. The State of Bihar & Anr. - 2018 ALL SCR (Cri) 104 to support his submission.

The learned A.P.P. submits that no where it is mentioned in this case that calling upon the accused to stay away from the locality, where the houses of the prosecution witnesses are situated, is an onerous condition. He submits that to understand if a condition is onerous or not, the context of the offence registered against those applicants has to be seen and considering the nature of offence, in this case, there is a reasonable possibility of tampering with the prosecutions witnesses or preventing them from speaking the truth before the Court.

Upon perusal of the case of *Kunal Kumar (supra)*, I find that the learned A.P.P. is right in his submission and that there is no merit in the submission of the learned Counsel for the applicants. This case does not state that the condition, which is a subject matter of the challenge in this application, would have to be regarded as onerous.

In the facts and circumstances of the case and having regard to the nature of offences, I find that the condition imposed here is reasonable and it balances not only the interest of the applicants-accused, but also of the prosecution.

There is no merit in this application. The application stands rejected. Liberty, however, is granted to the applicants to seek modification of the condition in question after the prosecution evidence is over.

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JUDGE

Sandesh
Daulatrao
Waghmare

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