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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3773 OF 2019
IN
BAIL APPLICATION NO.39 of 2019
with
CRIMINAL APPLICATION NO.1756 OF 2020
CRIMINAL APPLICATION NO.4163 OF 2020

Maheshchandra s/o Prabhakarrrao Gogade
(Patil) = APPLICANT

VERSUS

The State of Maharashtra = RESPONDENT

Mr.TM Venjane, Advocate for Applicant;
Mr.SW Mundhe, APP for Respondent-State;
Mr.SS Panale, Advocate to assist APP.

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 19th October, 2020.

PER COURT:-

1. Criminal Application No.4163/2020 moved
to assist APP is allowed and disposed of.

2. Criminal Application No.1756/2020 moved
for filing the document below Exh-CA 1 is allowed
and disposed of. The said document is taken on
record.

3. Criminal Application No.3773/2020 has
been filed for modification/relaxation of condition

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in clause II(a) of order dated 31.1.2019 passed by this Court in Bail Application No.39/2019 and to permit the applicant to enter territorial limits of Latur district.

4. Heard learned Advocates and learned APP for respective parties.

5. Learned Advocate for applicant submits that the applicant is a practicing advocate and permanent resident of village Bori, Tq, Shirur Anantpal, District Latur. He has been falsely implicated in the said offence. He has been released on bail by this Court, however, a condition has been imposed that he shall not enter the territorial limits of Latur district till conclusion of the trial except for attending the dates in the Sessions Court. He has abided by the said condition strictly up till now. He is residing in village Gitta, Tq.Ambejogai, Dist. Beed in the house of his brother-in-law. However, now his father has developed certain ailments. There is no other male earning member in his family. He has two brothers, however, they are still taking

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education. The family dependent on income of the applicant, which he cannot properly earn by staying out of his village. There is no complaint against him registered with police station regarding violation of any condition that has been imposed on the applicant. He, therefore, prayed for relaxation of that condition.

6. Learned APP as well as learned Advocate Mr. SS Panale, who has assisted the APP, strongly opposed the application stating that the said condition was imposed by this Court taking into consideration the manner in which the offence has been committed. Though the applicant is practicing Advocate; yet he is involved in the offence punishable under Section 302 of IPC and Section 3 punishable under Section 25 of Indian Arms Act and, therefore, on the grounds those have been mentioned in the application, the said term or condition cannot be relaxed.

7. At the outset, it can be seen that when the bail application was filed by the present applicant, he has specifically stated that he is

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ready to abide by any terms that may be imposed while releasing him on bail. The case against the present applicant is, the deceased was running Coaching Classes and co-accused – Chandan Chotelal Sharma was his partner in his business. The deceased had suspected about misappropriation or fraud against the co-accused, which triggered the dispute between them. It is the case of the prosecution that said Chandan Sharma has given contract to the present applicant, co-accused Sharad Gume and one Kiran Gaherwal to kill the deceased and the conspiracy to that extent was hatched up. The deceased was shot at in the intervening night of 24.6.2018 and 25.6.2018. Therefore, the manner in which the offence is stated to have taken place has prompted this court for imposing the said condition. Security of the witnesses is prime concern for the Courts now-a-days and their rights and need to protect them cannot beat the cost of alleged rights of accused to pursue their business/profession. By way of granting bail their liberty has been restored, however, it would be always subject to the conditions those are required to be complied.

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Under such circumstances of the case, therefore, definitely case is not made out to relax the said condition. The application stands rejected.

(SMT. VIBHA KANKANWADI,J.)

BDV