

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL PUBLIC INTEREST LITIGATION NO. 25 OF 2010

Anjali Ramesh Waghmare ..Petitioner.
Versus
High Court of Judicature at Bombay
on its Administrative Side and Another. ..Respondents.

WITH
CRIMINAL APPLICATION NO. 28 OF 2010
IN
PUBLIC INTEREST LITIGATION NO. 25 OF 2010

Borivali Advocates Bar Association. ..Applicant.
Versus
High Court of Judicature at Bombay
and Another. ..Respondents.

None for the Petitioner in PIL.
None for the Applicant in Crim. Application.
Ms. Rebecca Gonsalvez for Respondent No. 1.
Mr. J. P. Yagnik, APP for the Respondent-State.

Coram : RANJIT MORE &
SURENDRA P. TAVADE, JJ.
Date : **January 29, 2020.**

P. C. :

1. None appears on behalf of the Petitioner in the PIL as well as the Applicant in the intervention application. We have heard the learned counsel for Respondent No. 1.
2. On 17th January 2020, the above matter was placed before this Court. On that day, we passed following order :

"None appears on behalf of the the Applicant -

intervenor as well as the PIL petitioner. We have heard counsel appearing on behalf of the Respondents for some time. By way of indulgence to the Applicant, we adjourn this application to 29th January 2020. To be placed under the caption "dismissal".

3. In the PIL, the Petitioner has challenged the notification dated 29th July 2010 issued by the High Court of Bombay on its administrative side. By the said notification, the High Court has amended paragraph 12 of Chapter 1 of the Criminal Manual, 1980 by inserting paragraphs 1 to 6 therein, which read thus :

"(1) Every accused before being released on bail shall submit a list of atleast 3 blood relatives with their detail residential addresses and also the addresses of their place of work, if any. Accused shall also produce documentary proof of showing the correctness of the details produced by him.

(2) It shall be mandatory for every accused and every surety as a condition for grant of bail that, both the accused and the sureties must necessarily inform the police authorities as well as the Court granting the bail the change of their residential address while the accused is on bail. The change of residential address should be immediately intimated either by the accused or by the sureties as the case may be or by both.

(3) In case of the offences involving financial transactions, if an accused is released on bail, the amount of such bail shall be fixed having regard to the amount of money involved in the crime or the case pending before the Court. While determining such amount of bail, status of the accused, his past conduct and antecedents should also be considered, with a view to ensure that the accused will not venture or jump the bail.

(4) Along with every bail application, the accused shall submit copies of at least two documents amongst the following :-

- (i) Passport
- (ii) Pan Card Copy
- (iii) Bank Passbook

- (iv) Credit card with photograph
- (v) Ration Card
- (vi) Electricity bill
- (vii) Landline telephone bill
- (viii) Voter I.D. Card issued by the Election Commission of India.
- (ix) property tax Register.

After submission of these two documents the concerned Police Station shall conduct physical verification of the residential address so as to confirm the address appearing on these documents and place before the Court a certificate to that effect under the signature of the S.H.O.

(5) Accused released on bail shall report once in a week to the concerned police and once in a month to the Court granting the bail. Accused shall report once in a three month to the concerned Police Station and to the Court where case is pending during the pendency of trial after the Charge-sheet is filed.

(6) Whenever the accused is re-arrested after he had absconded or whenever the accused was arrested after warrant was issued due to his non appearance pursuant to the summons, he shall not be released on bail unless there are special reasons recorded by the Court empowered to grant bail.

In the event bail is granted as aforesaid then stringent conditions shall be imposed as may be considered fit by the Court granting bail which shall include regular attendance by the accused before the concerned Police Station."

3. On 20th December 2010, when the PIL was placed before the Court, the Court [Coram : B.H.Marlapalle & U D. Salvi, JJ] after hearing learned counsel appearing for the respective parties, by way of ad-interim relief directed as under :

- “(a) the impugned notification shall stand stayed and will not be made applicable while dealing with the bail applications fled under sections 436 and 437 of Cr.P.C. until further orders;
- (b) the impugned notification shall also stand stayed for the bail applications filed under

section 439 of Cr.P.C. by the foreign nationals, provided their passports have been impounded by the police or deposited with the Court or the concerned Police Station.”

4. The PIL was thereafter on 10th January 2013 placed before the Court. On that day, after hearing hearing all concerned, the division bench [Coram: A. M. Khanwilkar & K. K. Tated, JJ] passed following order :

“The averments in the Petition, in our opinion, are vague and not good enough to even prima facie hold that the condition in Notification dated 29th July, 2010 is unreasonable, unworkable or harsh. The impugned condition has been introduced because of the experience of large number of accused absconding after being released on bail. No empirical data or official record has been placed before us to entertain the grievance or challenge to the Notification as Public Interest Litigation. On the basis of vague assertions and because the Petitioner thinks the condition to be harsh, unreasonable or unworkable, the challenge cannot be entertained as Public Interest Litigation.

2) In deference to the observations made by the Court, the Petitioner, who is a practicing Advocate and appearing in person, prays for time to place on record necessary material in support of the challenge to the Notification dated 29th July, 2010. In the circumstances, we defer the hearing of this Petition for a period of two weeks from today. List this matter on 21st January, 2013, under caption “Direction”.

5. Till date from 10th January 2013, the Petitioner has not placed on record any material in support of the challenge to

the notification impugned in the PIL. The Petitioner has also not placed on record any empirical data or official record to entertain the grievance or challenge to the notification. We are also of the opinion that the impugned notification is issued because of the experience that large number of accused went absconding after being released on bail.

6. In above circumstances, we are not inclined to entertain this PIL. The PIL being devoid of any merit, is hereby dismissed. Needless to state that stay granted earlier stands vacated.

7. In view of the disposal of the main matter, i.e., PIL, the application taken out therein for intervention does not survive and the same is accordingly disposed of.

[SURENDRA P TAVADE, J.]

[RANJIT MORE, J.]