

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

**CRIMINAL APPLICATION NO. 819 OF 2021
IN
ANTICIPATORY BAIL APPLICATION NO. 342 OF 2019**

Noor Burhan Patel,
Age : 72 years, Occu. Agri.,
R/o. Gut No. 302, Phulenagar, Harsul,
Aurangabad, Tq. & Dist. Aurangabad.

...Applicant

Versus

The State of Maharashtra

...Respondent

.....
Mr. Atul M. Karad, Advocate or the applicant
Mr. S. B. Narwade, APP for respondent / State
.....

CORAM : V. G. BISHT, J.

DATE OF RESERVING THE ORDER : 06th September, 2021
DATE OF PRONOUNCING THE ORDER : 15th September, 2021

PER COURT : -

1. The applicant, who is the original accused in Anticipatory Bail Application No. 342 of 2019 arising out of the FIR bearing Crime No. 207 of 2018 registered with Harsul Police Station, Dist. Aurangabad, for the offences under Sections 302, 307, 120(B), 143, 147, 148, 149, 506 r/w 34 of the Indian Penal Code, under Section 4/25 of the Indian Arms Act and under Section 135 of the Maharashtra Police Act, seeks relaxation of the condition imposed by this Court (Coram : V. M. Deshpande, J.) vide order dated 10.04.2019, whereby the applicant is directed not to enter the territorial

jurisdiction of Aurangabad Tahsil till culmination of trial as per his undertaking.

2. Heard Mr. Atul M. Karad, learned Counsel for the applicant and learned APP

3. According to learned Counsel for the applicant, the applicant is more than 71 years old and is suffering from heart disease. Although presently he is staying at Vaijapur and there are medical facilities, having regard to the nature of ailments, the proper care and caution with equipped medical facilities can be availed of at hospital in Aurangabad. The family members are also living at Harsul, Tq. & Dist. Aurangabad and having regard to the age of applicant, he badly needs company of the family members so as to take care of his health. Applicant is ready to give attendance to the Harsul Police Station if the directions are given by this Court and, therefore, in such circumstances, the application be allowed.

4. Mr. S. B. Narwade, learned APP, on the other hand, would submit that the condition of not to enter territorial jurisdiction of Aurangabad Tahsil came to be imposed on applicant on his own undertaking and now, therefore, he should not be allowed to resile from that undertaking.

5. I have gone through the order passed by this Court on 10.04.2019. Condition no. (iii) of the said order stipulates that the applicant shall not enter the territorial jurisdiction of Aurangabad tahsil till culmination of trial as per the undertaking given by him. Similarly, condition (vi) clarifies that the applicant shall not try to cause any prejudice to the prosecution case.

6. I have also gone through the medical papers filed on record. I am also aware of the age of the applicant. Since the applicant has shown his readiness to attend the Harsul Police Station and having regard to the nature of ailments and the fact that he needs the company of family members to meet any eventuality, in my considered opinion, the application deserves consideration with conditions.

7. In view of above, I am inclined to pass the following order.

ORDER

- i. Application is allowed.
- ii. Condition no. (iii) imposed on applicant by this Court vide order dated 10.04.2019, is relaxed. Applicant is

allowed to enter the territorial jurisdiction of the Aurangabad Tahsil.

- iii. Since the applicant is residing at Harsul, he shall attend the Harsul Police Station thrice in a week i.e. every Monday, Wednesday and Friday in between 03:00 to 05:00 pm. If the Investigating Officer notices and finds that the applicant is indulging in the criminal activities, it shall be open for him to file an application for cancellation of bail before this Court.
- iv. The applicant is, however, directed not to tamper with the prosecution evidence or indulge in any criminal activity.

[V. G. BISHT]
JUDGE