

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

903 CRIMINAL APPLICATION NO.1261 OF 2021

BABARKHAN GULMUHAMMADKHAN PATHAN
VERSUS
THE STATE OF MAHARASHTRA

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Mr. A.S. Ingle, Advocate holding for
Mr.N.S. Ghanekar, Advocate for the applicant.
Mr. A.V. Deshmukh, A.P.P. for respondent - State.

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CORAM : **PRAKASH D. NAIK, J.**

DATE : 15-12-2021

ORDER :

1. This is an application seeking relaxation of condition of not to enter within the jurisdiction of District Beed till disposal of the case imposed while granting bail to the applicant vide order dated 9th July 2020 by Special Judge under the Maharashtra Control of Organised Crime (MCOC) Act.

2. The applicant was arrested in connection with Special Case No. 63/2020 arising out of CrimeNo.403/2019 for the offences punishable under Sections 302, 143, 147, 149, 195 (A), 201, 212, 384, 385, 120-B of the Indian Penal Code, under Sections 3 (1) (i), 3(2), 3(4), 3(5) of MCOC Act, under Sections 3 read with 35 and 4 read with 27 of the Indian Arms Act, under Section 135 of the Maharashtra Police Act and under Section 7 of Criminal Law

Amendment Act.

3. The applicant had preferred application for bail before the Special Court, which was allowed on a condition that the applicant shall not enter within the jurisdiction of District Beed till disposal of the case.

4. The applicant preferred application for modification of the order before the Special Judge, which has been rejected by order dated 30th January 2021.

5. Learned Counsel for the applicant submitted that the applicant has not committed breach of order dated 9th July 2020. For more than a year the applicant has kept himself away from the jurisdiction of District Beed. The applicant was granted bail on the ground that there is no direct involvement of the applicant in the crime.

6. Learned A.P.P., however, submitted that the applicant is charged for the offence under Section 302 of I.P.C. and under the provisions of MCOC Act. Learned Special Judge has rejected the application for relaxation of condition by assigning the reasons. Learned A.P.P. pointed out the observations of the Special Judge in paragraph No.8 of the order rejecting the application for relaxation of condition. It is submitted that the applicant is close relative of some of the accused and there is every likelihood that he would tamper with evidence in the event condition is relaxed.

7. Learned Counsel for the applicant in re-joinder submitted that there are no criminal antecedents against the applicant except one NC complaint. He drew my attention to the observations of the Special Court in paragraph No.21 of the order dated 9th July 2020 granting bail to the applicant.

8. Undisputedly, the applicant was directed to remain out of jurisdiction of Beed District which order was subsequently modified by permitting the applicant to enter District Beed to attend the trial Court. The order was passed on 9th July 2020. For more than a year the applicant has complied the said direction. In paragraph No.21 of the order granting bail, it has been observed that charge against the applicant is of conspiracy. Reliance was placed on NC dated 18.09.2019 wherein threats were given to the deceased. It was also contended by the prosecution that he is relative of some of the accused. The Court, however, observed that on consideration of whole charge-sheet and investigation papers, there is no iota of material in respect applicant to show his direct involvement in the incident or any role attributed to him for the purpose to hatch the conspiracy and / or to aid the other accused person to accomplish such conspiracy.

9. In view of the above, the relaxation as prayed for, can be granted with substituted condition that the applicant shall report the concerned police station. Hence, the following order.

ORDER

- (i) The order dated 9th July 2020 passed by learned Special Judge under MCOC Act in Special Case No. 63/2020, granting bail to the applicant, is modified by relaxing the condition No. 9, thereby permitting the applicant to enter within the jurisdiction of District Beed, except area of Balepeer.
- (ii) The applicant shall report Shivaji Nagar Police Station, Beed once in a month, on first Saturday of the month between 11.00 a.m. and 1.00 p.m. till further orders.
- (iii) The application stands disposed of.

(PRAKASH D. NAIK, J.)*VD_Dhirde*