

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

CRIMINAL APPLICATION NO.1263 OF 2021

Amruta s/o Mahadu Rasal

Age 53 years, Occu: Agri.

R/o Nighoj, Tq. Parner

District Ahmednagar

.. Applicant

VERSUS

The State of Maharashtra

Through Parner Police Station,

Dist.Ahmednagar.

.. Respondent

....

Adv.Mr. Kuldip Kahalekar h/f N.S.Ghanekar for applicant

A.P.P. Smt.R.P.Gaur for respondent.

....

CORAM : MANGESH S. PATIL

DATE : 29/07/2021

ORAL JUDGMENT :

Heard.

2] Rule. Rule is made returnable forthwith. With the consent of both the sides, the matter is heard finally at the stage of admission.

3] By way of this application the applicant who is one of the accused in Crime No.I-19/2017 registered with Parner Police Station, District Ahmednagar for the offences punishable under Sections 302, 120-B, 143,147,148,149,109 and 506 of the I.P.C. and under Section 25 read with Sections 3 and 4 of the Arms Act is seeking relaxation of a condition subject to which he was granted bail by the Sessions Court vide order dated

20/2/2017 whereby his entry into village Nighoj with a radius of 5 Kms. has been prevented.

4] The learned advocate for the applicant would submit that the applicant is being roped in with the allegations of having taken part in hatching the conspiracy to eliminate the deceased. Though it is being alleged in the F.I.R. that he had provided financial aid to the actual culprits who eliminated the deceased, the charge sheet is devoid of any such material. He does not have political links and is a social worker. The condition has prevented him from entering into his village for last 4 years. The trial is not likely to commence in the foreseeable future. Some of the accused whose case stands on a graver footing have been granted bail without putting such a condition. The condition was relaxed may be for a temporary purpose since the applicant was suffering from Covid-19 infection and there are no allegations about he having committed breach of the condition subject to which he was granted temporary relaxation and permission to enter into the village.

5] The learned A.P.P. opposes the application and submits that in fact it would be dangerous to the life of the applicant himself if he enters into the village as there is a strong resentment in the villagers against him. A co-accused who have been granted bail without such a condition has committed breach of the bail and has threatened the witnesses regarding which an application for cancellation of bail is pending. She would therefore submit that there is no sufficient reason to relax the condition.

6] I have carefully gone through the papers and considered the rival submissions. It is a matter of record that the applicant was granted bail by Sessions Court on 20/2/2017 and since then he has suffered with the condition for last more than 4 years. There are no allegations about he

having committed breach of this condition or made any attempt in that direction.

7] For that matter there are no allegations that he has committed breach of any other terms or condition subject to which he was granted bail.

8] Going by the apprehension being expressed by the Investigating Officer he is opposing this request primarily on the ground that it would be the applicant to whose life there is likelihood of some risk if he enters into the village. Needless to state that even if the apprehension being entertained by the Investigating Officer is genuine, that cannot be a ground to refuse to relax the condition which is being sought to be relaxed.

9] Additionally, the co-accused against whom there are graver allegations viz. Sachin Rasal, Khandu Bukan and Swapnil Rasal have been granted bail without any such restriction.

10] Considering all the aforementioned state of affairs, when the applicant has already suffered the condition for more than 4 years and the condition does not apparently require to serve any purpose any longer, in my considered view it deserves to be relaxed.

11] The application is allowed. The condition not to stay within the radius of 5 Kms. of village Nighoj stands withdrawn. The Rule is made absolute in above terms.

(MANGESH S. PATIL, J.)