

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

934 CRIMINAL WRIT PETITION NO.735 OF 2021

Umakant @ Kakasaheb S/o Devidas Jogdand
Age; 41 years, Occ; Agril,
R/o; Babhulgaon, Tq. & Dist. Beed.

...Petitioner

VERSUS

The State of Maharashtra
Through the Investigation Officer,
In Crime No. 166/2017
Registered with Neknoor Police Station,
Tq. & Dist. Beed.

...Respondent

...
Advocate for Petitioner : Mr.Mane Dhananjay A.
APP for Respondent-State : Mr. S.N.Morampalle
...

CORAM : SURENDRA P.TAVADE , J.

DATE : 21th August, 2021.

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. With the consent of the parties and counsel for the parties heard finally at the admission stage.

2. This petition is filed for challenging the impugned order passed by the Additional Sessions Judge, Beed at Exh. 60, in application No. 76 of 2018, whereby, the Trial Court has imposed the condition on the petitioner "not to enter in village Chausala, Taluka

and District Beed, till conclusion of the trial”.

3. The facts giving rise to the present petition can be summarized as under :

The petitioner was arrested in Cr. No. 166 of 2017 for the offences punishable under Sections 307, 452, 323, 504 and 506 read with Section 34 of the Indian Penal Code and Section 3 (25) of the Indian Arms Act, 1959. The petitioner was released on bail, thereafter, his bail was cancelled on the ground of breach of condition of bail, but the said order was set-aside by this Court in Criminal Writ Petition No. 721 of 2019 and the Court had directed to the Trial Court to decide the Criminal Case SC No. 76 of 2018 within three months from the date of order dated 22.10.2019. It was further directed that on failure to conclude the trial within three months, the petitioner shall be at liberty to move the Sessions Court for relaxation of the condition i.e. ‘not to enter the village Chausala’ vide order dated 29.01.2017. The trial Court has not concluded the trial. I constrained to note here that even the charge is not framed against the petitioner and others. It appears that the application for discharge is pending before the Trial Court. The petitioner has filed an application for relaxation of condition which is imposed.

4. Learned counsel for the petitioner submitted that the trial

is not concluded as directed by this Court, the petitioner is required to pass through the village Chausala to approach his native village. It is also contended by the learned counsel for the petitioner that the petitioner is not keeping good health, therefore, he required to visit village Chausala for medical treatment. Therefore, he prayed that the condition imposed may kindly be modified.

5. Heard Mr.Mane Dhananjay A., the learned counsel for the petitioner and Mr. S.N.Morampalle, the learned APP for the respondent-State.

6. Learned APP for the respondent State submitted that the petitioner is having criminal antecedents. There is sufficient material against the petitioner, collected by the Investigating Officer. There is possibility of threatening to the witnesses, therefore, condition may not be modified.

7. Perused the earlier order dated 29.11.2021 passed by this Court in Criminal Writ Petition No. 721 of 2019. It appears that the witnesses are residence of Chausala. The basic allegation against the petitioner is that he had threatened the informant and witnesses with dire consequences.

8. The learned APP has filed on record papers showing

criminal antecedents of the petitioner. It appears that in all six cases are filed against the petitioner. The latest FIR was registered on 27th March, 2021. The other four offences are of the year 2006, 2007, 2009 and 2010. In view of the criminal antecedents against the petitioner, it would not be just and reasonable to modify the impugned order. As far as the medical treatment of the petitioner is concerned, there is no material on record to hold that he requires to visit village Chausala for his medical treatment. Therefore, I am of the opinion that the trial Court has rightly prevented/restrained the petitioner from entering the village Chausala, which is the residential village of the informant and the witnesses. Therefore, there is no need to interfere with the impugned order. Before parting with the order it needs to be mentioned here that the trial Court has not taken pains to follow the orders passed by this Court in Criminal Writ Petition No. 721 of 2019. The trial Court is again directed to take steps for disposing of the criminal case pending against the petitioner and others, as early as possible. In view of this, the Writ Petition is disposed of.

9. Rule is discharged.

(SURENDRA P.TAVADE)
JUDGE