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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1 CRIMINAL WRIT PETITION NO.1121 OF 2021

**NAVNATH DATTABUWA BHARATI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. Niranjana M. Deshpande, Advocate for the
petitioner

Mr. S. P. Sonpawale, APP for the respondent/State

CORAM : N. R. BORKAR, J.

DATE : 22-11-2021

P. C.

. This petition takes an exception to the order dated 11-12-2020 passed by the District Judge-1, Gangakhed, Dist. Parbhani.

2. The respondent No. 4 is an accused in the Sessions Case No. 8 of 2019, & he is facing trial for the offence punishable under Section 302 read with Section 34 of the IPC alongwith other co-accused. This court by order dated 22-09-2020, in view of the directions of the High Power Committee constituted pursuant to the directions issued by the Hon'ble Supreme Court had released the respondent No.4 on temporary bail for 45 days. On 04-12-2020,

this court had extended the temporary bail granted to the respondent No.4 by further 30 days. This court thereafter on 08-01-2021 had passed the following order:

“1. Learned Advocate for the petitioner clarifies that the main application moved for regular bail has been disposed of by this court as withdrawn and, therefore, it is not pending.

2. Under such circumstances, as regards the order passed by this court on 04-12-2020 is concerned, it is clarified that the extension, that is granted to the applicant, is temporary and it will last till the Notification, under the Epidemics Diseases Act, 1897, comes to an end. On the date, when the notification would come to an end, the petitioner should surrender before the concerned court.

3. With this order, the writ petition stands disposed of.”

3. The learned counsel for the petitioner submits that the learned Additional Sessions Judge erred in passing order impugned and releasing the respondent No. 4 on temporary bail. It is submitted that the deceased was brother of the petitioner. It is submitted that there is threat to the life of the petitioner and his family members from the respondent No. 4. It is submitted that considering

the threat to the life of the petitioner and his family members, the other co-accused, who have been released on bail is asked to stay away from village Gaundgao. It is submitted that the order impugned thus needs to be set aside.

4. On the other hand learned counsel for the respondent No. 4 submits that the notification under the Epidemics Diseases Act, 1897, is still in existence. It is submitted that order impugned is just consequential order as same came to be passed pursuant to the orders passed by this court dated 22-09-2020, 04-12-2020 and 08-01-2021. It is submitted that present petition, thus, cannot be entertained. It is submitted that there is no material on the basis of which it can be said that there is threat to the life of the petitioner from the respondent No. 4. Accordingly it is submitted that the petition be dismissed.

5. I have perused the impugned order. The learned Additional Sessions Judge has referred to the order passed by this court dated 22-09-2020, 04-12-2020 and on the basis of said order granted the temporary bail. This court on 08-01-2021 had

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clarified the order dated 04-12-2020 and directed that the temporary bail granted to the respondent No. 1 will last till the notification issued under the Epidemic Disease Act comes to an end. It is not in dispute that the notification under the Epidemic Disease Act is still in existence. Hence, no interference is called for in the impugned order.

6. However, admittedly the respondent No. 4 is an accused in the serious crime for the offence punishable under Section 302 of the IPC. It appears that after rejection of his regular bail application by the Sessions Court, application for regular bail was filed before this court, however, it was withdrawn. The co-accused in the crime, who has been released on regular bail is asked to stay away from village Gaundgao. Considering the facts and circumstances of the case, the respondent No. 4 shall not stay in village Gaundgao and shall surrender once the period of his temporary bail is over. The petition is disposed of in the above said terms.

[N. R. BORKAR, J.]