

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 413 OF 2021
IN
CRIMINAL APPLICATION NO. 807 OF 2016
IN
CRIMINAL APPEAL NO. 716 OF 2014

Mr. Santosh Thorat. ...Applicant.
Versus
State of Maharashtra & Another. ..Respondents.

Dr. Uday Warunjikar for the Applicant.
Ms. Geeta P. Mulekar, APP for the Respondent-State.

CORAM : PRASANNA B. VARALE &
N. R. BORKAR, JJ.
Date : **August 10, 2021.**

P. C. :

1. Heard Mr. Uday Warunjikar, learned counsel for the Applicant. At the outset, Mr. Warunjikar submitted that due to inadvertence, an error has occurred in the title clause of application while referring the status of respondent; it is stated that "State of Maharashtra through PSO Mayni Police Station, Taluka Khatav, District Palghar" and it ought to have been "State of Maharashtra through PSO Mayni Police Station, Taluka Khatav, District **Satara**". Learned counsel then prayed for addition of party in the array of respondents, i.e., the State of Maharashtra through PSO Dehu Road Police Station, Taluka Haveli, District Pune. The oral prayer for amendment is allowed. The

amendment be carried out during the course of the day.

2. Learned counsel Mr. Warunjikar by inviting our attention to the orders passed by this Court dated 13th February 2018 and 2nd December 2020 as well as the order dated 5th July 2019 submitted that co-accused who have filed individual applications in their respective appeals before this Court, while allowing those applications, no condition was imposed on those applicants prohibiting them from entering in Pune district. It is then submitted by the learned counsel that the applicant is doing the business of scraps and having scrap shop in Pune city. Mr. Warunjikar, learned counsel by inviting our attention to the order of this Court dated 20th December 2020 submitted that this very fact was submitted to this Court and reference is made in paragraph 6, which reads thus :

"It was submitted before this Court that the Applicant is having a scrap shop in Pune city, the Applicant be permitted to enter Pune city and to report at Dehu Road Police Station in Haveli Taluka of Pune District."

3. Learned counsel Mr. Warunjikar submitted that for similar prayer, the Applicant was before this Court by filing interim application No. 3292 of 2020 and at the relevant time, the Division Bench of this Court could not find any favour with the Applicant and the application

was rejected. Learned counsel Mr. Warunjikar submitted that the whole family of Applicant is dependent on the present Applicant and in case the Applicant is permitted to enter into Pune district, the Applicant would be in a position to look after his business / shop, and in turn can provide necessary financial assistance to his family. Learned counsel invited our attention of this Court to the order dated 26th November 2020 and submitted that the Applicant would report to the Superintendent / Registrar of the District Court, Pune on any dates prescribed by this Court, to show his bonafides.

4. While opposing the application, the learned APP submitted that the incident in question giving rise to the registration of offence took place in the area under the jurisdiction of Dehu Road Police Station in Haveli taluka and witnesses were also from the same place.

5. Mr. Warunjikar, learned counsel submitted that the Applicant undertakes to this Court that he will not enter in the area under the jurisdiction of Dehu Road Police Station in Haveli taluka.

6. Considering the above referred rival submissions of the learned counsel appearing for the respective parties as well as considering the fact that post our order dated 2nd December 2020 the

other co-accused have been released on bail without any condition and considering the submission made by learned counsel for the Applicant that the whole family of Applicant is dependent on Applicant and if the Applicant is permitted to enter Pune District and further permitted to carry out his business and shop, he would be in a position to provide necessary financial assistance to his family as well as considering the undertaking submitted to this Court that the Applicant would not enter in the area under the jurisdiction of Dehu Road Police Station, which takes care of the apprehension expressed by learned APP, the application is allowed and the condition imposed upon the Applicant in paragraph 8 of the order of the division bench dated 13th February 2018 in Criminal Application No.807 in Criminal Appeal No. 716 of 2014 is modified and the Applicant is permitted to enter in Pune district. The Applicant shall furnish the complete address of his residence as well as of his shop to the Superintendent / Registrar, District Court Pune. The Applicant shall also provide his mobile number as well as the mobile numbers of his nearest relatives. The Applicant shall report to the Superintendent / Registrar of the District Court, Pune on the first Monday of each month and maintain a diary of his attendance duly countersigned by the Superintendent / Registrar of the District Court, Pune. Needless to state that the other conditions imposed on the Applicant vide the order dated 13th February 2018 remain unchanged.

The Applicant shall not enter in the area of jurisdiction of Dehu road Police Station, taluka Haveli, district Pune. The application is accordingly disposed of.

[N R. Borkar, J.]

[Prasanna B. Varale, J.]