

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**960 CRIMINAL APPLICATION NO.206 OF 2022
IN APEAL/619/2020**

POPATRAO RAMRAO GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. Girish K. Thigle (Naik), Advocate for the applicant.
Mr. S.D. Ghayal, A.P.P. for respondent No. 1 - State.
Mr. R.R. Shaikh, Advocate for respondent No. 2.

...

CORAM : **V.K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.**

DATED : 7th April 2022.

P.C. :

1. Heard.

2. Learned Counsel for the applicant submits that by order dated 15th January 2021 in Criminal Appeal No.619 of 2020, this Court (Coram : Ravindra V. Ghuge and B.U. Debadwar, JJ.), released the applicant on bail with certain conditions. So far as condition (b) is concerned, the applicant, by way of filing this application, is seeking relaxation of the said condition.

3. Learned Counsel for the applicant submits that in

terms of Condition (b) of the said order, the applicant is directed to mark his attendance to Naigaon Police Station on every second and fourth Saturday in between 1.00 p.m. to 5.00 p.m. Learned Counsel submits that since from the date of passing of the order i.e. 15th January 2021, the applicant has abided the said condition and giving his attendance regularly to the concerned Police Station on every second and fourth Saturday between the time as directed. Learned Counsel for the applicant submits that the applicant is in the service of one bank as a Security Guard at Biloli and it will be convenient for him to give the attendance at Police Station, Biloli. Learned Counsel submits that the case will also be tried in the Court at Biloli. Learned Counsel submits that condition (b) may be modified to the extent of the place of attendance so also the days. Learned Counsel submits that considering the period, which has already passed, it may not be appropriate if the applicant is again asked to give his attendance on every second and fourth Saturday, till the trial is over.

4. Learned Counsel for respondent No. 2 submits that the applicant has suppressed the fact of registration of another crime against him on the basis of the complaint

lodged by the victim. Learned Counsel for the applicant, however, at this stage submits that the applicant has not suppressed the fact of registration of earlier crime. Learned Counsel for respondent No. 2 submits that in view of the two crimes registered against the applicant on the basis of the complaint lodged by the same victim on earlier occasion, this Court had imposed the said condition and the same may not be relaxed.

5. Learned A.P.P. though strongly resisted the application, however, accepted on instructions from the Investigating Officer, that the applicant has given his attendance and the same is marked in the Station Diary in terms of the condition (b) of the bail order.

6. By order dated 15th January 2021, while releasing the applicant on bail, this Court had imposed condition (b), which reads as under :

“b) Since the applicant is in employment and is now posted in Nanded, and considering his statement that he would never visit Naigaon, Tq. Naigaon, except for marking his attendance with the Naigaon Police Station, he shall mark his attendance on every 2nd and 4th Saturday in between 1.00 p.m. to 5.00 p.m. His attendance shall be noted in the Station House Diary and the SHO shall obtain his signature to evidence his attendance”.

7. The applicant is now posted at Biloli as a Security Guard in one bank. Furthermore, the case in which this condition is imposed, will also be tried in Sessions Court at Biloli. Though learned Counsel for the applicant has requested for modification of the said order directing the applicant to attend Police Station at Aurangabad, however, at present we are not inclined for the same. The applicant may be at liberty to file an application for the said direction in case he is transferred to Aurangabad as contended by learned Counsel for the applicant.

8. In view of the submissions made above and considering the applicant has given his attendance regularly in terms of condition (b), we deem it appropriate to relax the said condition to some extent directing the applicant to attend the Police Station at Biloli on the first day of every month. Hence, the following order.

ORDER

- (i) The Criminal Application is hereby partly allowed.
- (ii) Condition in terms of clause (b) of para No.16 of the order dated 15th January 2021 passed by this Court in Criminal Appeal No.619 of

2021 is hereby modified and relaxed to the following effect :

“b. The applicant Popatrao Ramrao Gaikwad shall mark his attendance with the Biloli Police Station on the first day of every month in between 1.00 p.m. and 5.00 p.m”.

(iii) The Criminal Application is disposed of accordingly.

(iv) We quantify fees of the learned appointed Counsel at Rs. 2,000/- (Rupees Two Thousand) to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

(SANDIPKUMAR C. MORE, J.)

(V.K. JADHAV, J.)