

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

CRIMINAL WRIT PETITION NO. 106 OF 2022

Aboli W/o Amit Wagh ... Petitioner

Versus

The State of Maharashtra ... Respondent

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Mr. P. R. Katneshwarkar, Advocate h/f Mr. S. B. Solanke, Advocate for petitioner

Mr. S. P. Sonpawale, APP for respondent - State

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CORAM : R. G. AVACHAT, J.

DATED : 14th MARCH, 2022

ORDER :-

. The challenge in this petition is to the order dated 21.10.2021, passed by the learned Judicial Magistrate First Class, Parali (V), rejecting application Exh.102 for permanent exemption from appearance in connection with Regular Criminal Case (R.C.C.) No.207 of 2017.

2. Heard. Perused the order impugned herein and the related papers.

The petitioner is a woman. Her husband and two children have been residing in Singapore. On earlier two – three occasions, she had been to Singapore with the permission of the trial Court. The applicant is one of the accused in R.C.C. No.207 of 2017 filed in connection with the offence punishable under Sections 420, 406, 409 and 120(B) of the Indian Penal Code. There are in all 6 - 7 accused. Some of them are the close relations of the petitioner herein. The petitioner was said to be a sleeping partner in a firm. The amount involved in the alleged offence is of little over Rs.1,20,00,000/- (Rupees One Crore Twenty Lakh). The learned Advocate, on instructions, submitted that the petitioner undertakes not to create any third party interest in respect of her flat in Pune. Last time also she had furnished such undertaking and even deposited a sum of Rs.2,00,000/- (Rupees Two Lakh). The record indicates that the applicant had requested the trial Court to separate her case and try it at the earliest. The same indicates the *bona-fides* of the petitioner herein.

3. The trial Court has rejected the application on the ground that charge is yet to be framed. If the exemption is granted, her absence may hinder the progress of the case.

4. The reasons given by the trial Court for rejection of the application are sound one. The care thereof, however, could be taken on condition that the petitioner shall furnish an undertaking that she shall not dispose off her flat in Pune until conclusion of the trial. She shall appear before the trial Court as and when required by the Court. Particularly, from framing of charge, recording of statement under Section 313 of the Code of Criminal Procedure, etc. The trial Court may also frame the charge as against the petitioner herein virtually. Even, statement under Section 313 Cr.PC. of the petitioner, if any, may also be recorded through any representative, to be nominated by her.

5. In view of the above, the Criminal writ petition is allowed.

The order impugned herein is set aside. The application Exh.102 is allowed on furnishing an undertaking that the petitioner shall not dispose off or create any third party interest in respect of her flat in Pune (description to be given by her). She shall appear before the trial Court as and when required. The trial Court may frame the charge virtually.

6. Later on, the petitioner has furnished the requisite undertaking. The same be transmitted to the trial Court for being a part of record of R.C.C. No. 207 of 2017

[R. G. AVACHAT, J.]

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