

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.527 OF 2022
IN APPLN/5572/2011

RAMU @ ROSHAN S/O ASHOK DEORE
VERSUS
THE STATE OF MAHARASHTRA

...

AND

CRIMINAL APPLICATION NO.528 OF 2022
IN APPLN/4852/2011

ARUN S/O SAKHARAM JADHAV
VERSUS
THE STATE OF MAHARASHTRA

...

AND

CRIMINAL APPLICATION NO.529 OF 2022
IN APPLN/5584/2011

SHARAD @ KALU S/O VIJAY MANE
VERSUS
THE STATE OF MAHARASHTRA

...

AND

CRIMINAL APPLICATION NO.530 OF 2022
IN APPLN/5251/2011

TUSHAR @ BANTI S/O RAGHUNATH BORSE
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. H. V. Tungar, Advocate for applicants in all the applications.
Mr. B. V. Virdhe, Mr. A. M. Phule, Mr. V. M. Kagne and Mrs. Vaishali Patil
Jadhav, APP for the respondent – State in respective matters.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 25.02.2022

PER COURT :

. All these applicants are the accused persons in Sessions Case No.132 of 2011 pending before the learned District Judge-3 and Additional Sessions Judge, Dhule. All of them have filed applications for releasing condition imposed by this Court while granting bail to them.

2. Heard learned Advocate Mr. H. V. Tungar for the applicants in all the matters and learned APP Mr. B. V. Virdhe, Mr. A. M. Phule, Mr. V. M. Kagne and Mrs. Vaishali Patil Jadhav for the respondent – State in respective matters. In order to cut short, it can be said that all of them have made submissions in support of their respective contentions.

3. All the applicants had approached this Court for grant of bail under Section 439 of the Code of Criminal Procedure. They were arrested in connection with Crime No.64 of 2011 registered with Mohadi Police Station, Dist. Dhule for the offences punishable under Sections 302, 201, 120-B and 404 read with Section 34 of Indian Penal Code. This Court granted bail to the applicants in Criminal Application Nos.527 of 2022, 529 of 2022 and 530 of 2022 on 17.12.2011 and imposed following condition :-

“iii) Upon release, the applicant shall report to the concerned Police Station on every Second Saturday

between 11.00 a.m. to 4.00 p.m. till evidence of material witnesses on behalf of the prosecution is recorded.”

So also, this Court granted bail to the applicant in Criminal Application No.528 of 2022 on 15.12.2012 and imposed following condition :-

“The applicant shall report to the concerned police station on every 2nd and 4th Saturday, between 11.00 a.m. to 4.00 p.m. till recording of evidence of material witnesses of the prosecution is over.”

The applicants in all these applications want to get the said condition of attendance to be relaxed. The computerized roznama has been produced. It appears that on 01.12.2021, the application filed by learned APP for adjournment was granted strictly as a last chance. Thereafter also the matter was on board on 01.12.2021, 05.01.2022 and 02.02.2022, still the adjournments were granted by the concerned Court. It is unfortunate state of affairs that even after 10 years, the evidence has also not been started in this case. Instead of getting any explanation from the concerned Court, it is to be seen that for 10 years when applicants in Criminal Application Nos.527 of 2022, 529 of 2022 and 530 of 2022 were directed to report to the Police Station on every second Saturday between 11.00 a.m. to 4.00 p.m. and applicant in

Criminal Application No.528 of 2022 was directed to report to the Police Station on every 2nd and 4th Saturday between 11.00 a.m. to 4.00 p.m. that means whole day and they have stated that they have obeyed this condition, even without calling upon the prosecution to explain, the application deserves to be allowed. When, in fact, the charge-sheet itself was filed in the year 2011, it was not necessary that the applicants would still continue to go to the police station. If the order passed by this Court is seen, then it can be seen that applications were granted on the ground of parity. There was no specific reason given as to why the applicants were directed to report to the Police Station till the evidence of material witnesses on behalf of the prosecution is recorded. Even if we consider that, said condition was imposed just to see that the evidence is not tampered, yet it cannot be stretched too far for about 10 years. Even forgetting about the material witnesses, none of the witnesses appear to have been examined in this case. We do not go into the details about the delay in trial, but the conditions cannot be to harass the accused. The condition regarding not to tamper with the evidence of the prosecution is inherent condition for grant of bail. There is also no necessity to make it specific. All the applications stand allowed. The said condition stands set aside.

[SMT. VIBHA KANKANWADI, J.]

scm