

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

927 CRIMINAL APPLICATION NO.882 OF 2020
IN
CRIMINAL APPLICATION NO.3325 OF 2010
IN
CRIMINAL APPLICATION NO.1308 OF 2010

KISAN BABURAO BERAD
VERSUS
THE STATE OF MAHARASHTRA

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Mr. G.K. Thigle-Naik, Advocate for the applicant
Mrs. V.N. Patil-Jadhav, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.
DATE : 02nd FEBRUARY, 2022

ORDER :

1 Present application has been filed for relaxation of condition imposed on the applicant, while he was released on bail.

2 Present applicant is an accused in Crime No.229 of 2009 for the offence punishable under Section 420, 408, 418, 468, 471, 477 read with Section 34 of Indian Penal Code, 1860. He had filed application under Section 438 of Code of Criminal Procedure, 1973, for bail before this Court vide Criminal Application No.1308 of 2010. The said application came to be

granted on 28.04.2010 by imposing certain conditions. One of the conditions was that he shall deposit, without prejudice to his rights to recover the amount, Rs.5,00,000/- directly with the Milk Scheme within 4 weeks from the date of the order and produce receipt thereof for compliance. Applicant submits that initially he had deposited amount of Rs.1,00,000/- and got the time to deposit rest of the amount extended by order dated 27.08.2010. During the pendency of the matter, report of the Joint Registrar, Co-operative Societies came to be finalized under Section 83 of Maharashtra Societies Act and applicant has been exonerated. These aspects prompt him to approach for relaxation of condition. He prays for relaxation of said condition and refund of amount with interest.

3 Heard learned Advocate Mr. G.K. Thigle-Naik for applicant and learned APP Mrs. V.N. Patil-Jadhav for the respondent.

4 Learned Advocate for the applicant has submitted that since the offence alleged against the applicant was in respect of the Co-operative Society, now the inquiry under Section 83 of the Maharashtra Co-operative Societies Act is over and applicant has been exonerated, there is no question of cheating or misappropriation. The said amount was directed to be deposited as condition precedent, though such condition can not be put for

grant of bail. Applicant has obeyed the order. With his exoneration, applicant is entitled to receive his amount back with interest.

5 Per contra, the learned APP strongly opposed the application and submitted that the applicant has enjoyed the fruits of the order since 2010. He cannot now criticize the said order. The criminal case, in which he is still on bail, is yet to be decided.

6 At the outset, applicant cannot point out alleged illegalities in the order passed by this Court, before this Court itself. He had not challenged the order granting him anticipatory bail for 10 long years. He has enjoyed the fruits of the same. Instead of challenging the order, he had got the extension of time to comply the order. Now, merely because the Joint Registrar has given him clean chit, he has come for relaxation of condition to bail. When the criminal case in which that bail was granted is pending, applicant cannot ask for refund of amount as relaxation of condition. Applicant has not given the status of the case. The conclusion drawn by Joint Registrar under the said inquiry is not binding on the criminal Court. There is no merit in the application. It stands rejected.

(Smt. Vibha Kankanwadi, J.)