

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**CRIMINAL APPLICATION NO.1529 OF 2022
IN BA/857/2020**

LEELABAI W/O CHHAGAN BAIRAGI
VERSUS
THE STATE OF MAHARASHTRA

.....
Advocate for Applicant : Mr. S. S. Jadhav
APP for Respondent-State : Mr. A. M. Phule
.....

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 29-04-2022

ORDER :

1. Not on board taken on board.
2. Perused the order passed by this Court on 21-09-2020 and 19-01-2021. It is to be noted that the bail was granted this Court on 21-09-2019 taking into consideration the directions given by the High Power Committee. Thereafter, by order dated 19-01-2021 this Court made it clear that the said order dated 21-09-2020 stand extended for further period of 30 days at a time till such notification/recommendation is withdrawn. However, the applicant was then asked to report the police station on expiry of every 30 days period. In spite of this, it appears that the original informant made an application at Exhibit 46 before the learned Additional Sessions Judge (Fast Track

Special Court), Jalgaon, giving a picture that such extension has not been granted after the order dated 21-09-2020. There is a reference of order passed by this Court on 14-12-2021 in Criminal Application No.3016 of 2021. Statement was made by learned APP that the present applicant who was respondent No.2 therein had not sought extension of period of temporary bail, and therefore, the applicant was granted liberty to take appropriate legal action and thus that application came to be disposed of. However, it is to be noted that a separate application was filed by the present applicant vide Criminal Application No.2262 of 2020 in the bail application itself and as aforesaid the order was passed by this Court on 19-01-2021. In application Exhibit 46, the original informant had prayed for issuance of arrest warrant. Thereafter, on 08-04-2022 say was given by this applicant and it can be seen that it was not happily worded. It was not brought to the notice of the concern Judge that already order has been passed on 19-01-2021. However, it appears that in Exhibit 59 which was the application-cum-say, the applicant informed the Court that the order was already produced and then time was sought for submitting the notification/directions by the High Power Committee. After hearing both sides, the learned Additional Sessions Judge has passed order on 08-04-2022 allowing

15 days time to the applicant to bring the updated orders passed by the High Court in the her favour granting protection.

3. It is to be noted that the wordings those have been used are highly deprecable. The learned Additional Sessions Judge ought to have consider his own record before passing the said order. The order does not reflect that he had called for the say from the writ division as to whether any writ has been received pursuant to the orders passed by this Court in the said matter. He could have checked the order on the website. While passing order on 19-01-2021 it was directed that parties to act on the authenticated copy of the order. This Court can see the office copy of the writ issued after the order was passed by this Court (Coram:Mangesh S. Patil,J.) on 19-01-2021, issued on 22-01-2021. It can be presumed that in the normal course the writ would have been received by Sessions Judge (Fast Track Special Court), Jalgaon.

4. Certified copy of Exhibit 51 in the Sessions Case which was the say filed by State to application Exhibit 46 has been made available for the perusal of this Court. It has reference to order dated 14-12-2021 as well as 19-01-2021 passed by this Court. Therefore, taking into consideration the two dates of the order coming before him the

learned Judge ought to have taken pains to get the copy of the order at least from the website. Instead of that, the learned Judge has made a mention that the learned Advocate for the applicant read the message on the mobile sent by the Advocate representing the accused before this Court. When a proper mode was available, the learned Judge has not adopted the same. The learned Judge cannot dictate this Court by twisting the words that the applicant should bring updated orders passed by this Court in her favour, and therefore, wordings those are used are deprecable.

5. This Court had in clear words extended the time of the temporary bail for a further period of 30 days till the notification/recommendation is withdrawn. It was for the learned Sessions Judge (Fast Track Special Court), Jalgaon, to see as to whether the said notification and order has been withdrawn or not. In fact, the High Power Committee was constituted in pursuant to the directions given by the Hon'ble Apex Court, and therefore, the learned Judge could have even considered the order passed by the Hon'ble Supreme Court and also the guidelines given by the High Power Committee. There was no question of then seeking further extension. Another fact to be noted is that the applicant appears to

have been attending the police station in pursuant to the order passed by this Court on 19-01-2021.

6. The position as on today which has been submitted by the learned Advocate appearing for the applicant that by order dated 16-07-2021 in *Suo Motu Writ Petition (C) No.1 of 2020*, the three Judges Bench of the Hon'ble Apex Court has observed thus :-

"So far as those prisoners who have already been released on bail from the prison by virtue of Orders passed by this Court from time to time and on the basis of recommendations of High Powered Committees constituted for the purpose are concerned, they shall not be asked to surrender to the prison, until further orders."

It is submitted that thereafter there are no fresh orders, and therefore, the applicant need not surrender. The learned APP has also made the said submission after going through the website of the Hon'ble Apex Court. Under such circumstances, only directions can be given to the learned Additional Sessions Judge that he should confirm the position as regards the directions given by the Hon'ble Apex Court and also take note of the order passed by this Court on 19-01-2021, and if he comes to the conclusion that the Apex Court is not expecting that the applicant should surrender, then he shall

not insist for the surrender of the applicant. The learned Additional Sessions Judge be careful while passing the orders.

7. In view of these directions, the order passed by learned Additional Sessions Judge (Fast Track Special Court), Jalgaon below exhibit 59 in Sessions Case No.19 of 2019 dated 08-04-2022 is hereby set aside. Application stands disposed of.

8. Parties to act upon authenticated copy of this order.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.