

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**CRIMINAL APPLICATION NO.1219 OF 2021
IN BA/1365/2020**

SHIVHARI S/O NAMDEO TEPLA
VERSUS
THE STATE OF MAHARASHTRA

.....
Advocate for Applicant : Mr. P. P. More
APP for Respondent-State : Mr. V. M. Kagne
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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 10-01-2022.

ORDER :

1. Present application has been filed for relaxing the condition No. (ii)(b) of the operative part of order dated 14-12-2020 passed by this Court in Bail Application No.1365 of 2020 with CA No.2121 of 2020 to the extent of restrictions on the applicant to enter in the village limits.
2. Heard learned Advocate Mr. P. P. More for applicant and learned APP Mr. V. M. Kagne for respondent-State.
3. It has been vehemently submitted on behalf of the applicant that the applicant was granted bail by this Court on conditions and the condition that was imposed the present applicant shall not enter the limits of village Chandal Tepla Tq. Bhokardan District Jalna, till the

conclusion of the trial. That order came to be passed on 14-12-2020 and till today the applicant has abided by the said condition. The applicant is having wife and old parents residing in the said village. The applicant was doing agricultural work for livelihood and he is the only bread earner. Now due to lockdown and as he is staying outside, he is unable to get much income. So also he is unable to take proper care of his parents. No further offence has been registered against the present applicant, and therefore, that condition deserves to be relaxed as the criminal case is also not proceeding further.

4. Per contra, the learned APP strongly passed the application and submitted that taking into consideration the manner in which the offence was committed and also the fact that the witnesses are from the same village, this Court had imposed the said condition. There is no necessity to relax the said condition till the conclusion of the trial.

5. We should take into consideration the purpose for which such conditions are imposed. Present applicant was seeking bail in connection with Crime No.82 of 2020, registered with Hasnabad Police Station District Jalna, for the offences punishable under

Section 302, 307, 326, 325, 324, 323, 147, 148, 149 and 504 of the Indian Penal Code. Co-accused Bhanudas Teple had also filed FIR against the informant and five other persons, that means, the cross case bearing Crime No.81 of 2020, for the offence punishable under Section 326, 324, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code. It was take a note of the fact that dispute was in respect of common way leading to agricultural land. After considering both the FIRs, this Court was of the opinion that there was almost a free fight between two groups and a possibility of tampering with the prosecution evidence was expressed by learned APP which led to imposition of the said condition. Allegations were made that the present applicant had used iron rod and caused injury on the head of deceased. It was the only injury that was found in the post mortem report. In clear words it is stated that,

"Thus, possibility of implicating each and every member from the rival group, cannot be ruled out.....Furthermore, in order to avoid tampering with the prosecution evidence, it would be just and proper to restrain entry of the applicant in the village till conclusion of the trial."

Now, when the law expects that both the cases should be tried simultaneously by the same Judge, there would be certain delay. So

also due to pandemic situation we are unable to get the proper momentum. Pendency has increased due to the increase in the crime rate, but the fear remains the same, and therefore, no case is made out to relax the said condition. Hence, the application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-