

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

**CRIMINAL APPLICATION NO.1253 OF 2021
IN
BAIL APPLICATION NO.494 OF 2020**

- 1) Bhagwat S/o Haribhau Nagargoje,
- 2) Dnyaneshwar S/o Vishnu Dahiphale,
- 3) Rahul S/o Shahadeo Dahiphale,
- 4) Vishnu S/o Pandharinath Dahiphale

...APPLICANTS

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.Narayan B. Narwade Advocate for Applicants.
Mr.N.T. Bhagat, A.P.P. for Respondent-State.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 10th JANUARY, 2022

ORDER :

1. Present Application has been filed by the applicants for relaxation of condition imposed by this Court in Clause II (b) while allowing Bail Application No.494 of 2020.

2. Heard Mr. Narwade learned Advocate for the applicants and Mr. Bhagat, learned APP for the respondent – State.

3. It has been vehemently submitted on behalf of the applicants that the applicants were arrested in connection with Crime No.697 of 2019 registered with Pathardi Police Station, District-Ahmednagar for the offence punishable under Sections 302, 307, 324, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code and Sections 3/25, 27 of Arms Act, 1959 and Section 37(1) (3)/135 of Bombay Police Act. This Court allowed the Bail Application on 14th August 2020 by imposing following conditions:-

“(a) The applicants shall not tamper with the prosecution evidence in any manner.

(b) The applicants shall not enter within the limits of village Daityanandur, Tq. Pathardi, District Ahmednagar till conclusion of trial.”

4. Present Application is restricted to relaxation of condition No. II (b) and allowing the applicants to enter within the limits of village Daityanandur, Taluka-Pathardi, District-Ahmednagar. It is submitted that father of applicant No.4, who is also grand father of applicant No.2, namely, Pandharinath Dahiphale, is about 86

years old. Wife of Pandharinath is 84 years old. Nobody is there in the house / village to take care of the old parents / grand parents. The applicants are agriculturists by profession and therefore when all of them have been directed to be outside the village, the agricultural activities in their field are not properly conducted. It is causing financial loss also to the applicants. After the applicants were released on bail, they have abided by the terms of the bail and no fresh allegations about their behaviour have been complained of and therefore the said condition deserves to be relaxed.

5. Per contra, the learned APP submitted that the said condition was imposed with some intention, taking into consideration the back-ground. There was cross complaint vide Crime No.699 of 2019 for the offence punishable under Sections 307, 326, 325, 324, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code, Sections 3, 4 punishable under Section 25 of the Arms Act and Section 37(1) punishable under Section 135 of the Maharashtra Police Act. While allowing Bail Application, this Court had also noted that there is enmity between two groups on account of Gram Panchayat elections and there was free fight. In order to avoid any possibility of commission of similar kind of

offence, that restriction was imposed and it deserves to be continued till the conclusion of the trial.

6. The entire record would show that there is chequered history. Two Bail Applications filed earlier by the applicants were rejected by this Court. But, thereafter, on a subsequent occasion their Application came to be allowed by this Court on 14th August 2020. Taking into consideration the cross-complaints, allegations against each other, it was opined that there appears to be free fight between the two rival groups who were having political back-ground. Learned APP expressed apprehension that there are independent witnesses ascribing specific role to each of the applicants and therefore there is strong possibility of tampering with the prosecution evidence if the applicants are released on bail. So also the apprehension was expressed that if they are released on bail, there is possibility of commission of similar offence. Thereafter, this Court has observed that:-

“The apprehension expressed by learned A.P.P. seems to be well founded and in view of the same, the condition restricting the entry of the applicants in village Daityanandur, Tq.Pathardi, District Ahmednagar, till conclusion of the trial would be appropriate.”

7. Accordingly, that condition was imposed. When condition is imposed with specific intention taking into consideration the back-ground, then the premature relaxation of the condition should also be have some exceptional reasons only. Merely because parents of one of the applicants are old enough who are also grand parents of another applicant, cannot be a ground to relax the said condition. It will not be out of place to mention here that by order dated 26th November 2021 passed by this Court, for a specific period the said condition was relaxed for applicant No.3 in view of the fact that he was getting married. It was relaxed only for a period of four days. The security and protection to the witnesses, especially who are independent, will have to be given preference and therefore, the reasons / grounds mentioned in the Application for relaxation of condition to the bail granted to the applicants are neither justifiable nor genuine.

8. The Application, therefore, stands rejected.

[SMT. VIBHA KANKANWADI, J.]