

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 357 OF 2021

Suraj @ Pilya Prakash Hirvarkar @ Hiwarkar ...Appellant
Versus
The State of Maharashtra and Anr. ...Respondents

Mr. Prashit D. Bagul for the Appellant.

Mr. S.S.Pednekar, A.P.P for the Respondent-State.

Ms. M. Sharma i/b Mr. Harshad Sathe for the Respondent No.2.

CORAM : REVATI MOHITE DERE, J.
DATE : 21ST JANUARY, 2022
(Through Video Conferencing)

P.C. :

1. Heard learned Counsel for the parties.

2. By this appeal, the appellant seeks modification of the order dated 9th September, 2020 passed by the learned Additional Sessions Judge, Pandharpur, inasmuch as, it directs the appellant to submit the list of atleast three blood relatives with their detail residential addresses and also the addresses of their place of work alongwith documentary evidence of the correctness of the detail produced by them.

3. Learned Counsel for the appellant submits that the appellant has no blood relatives and that the appellant's mother expired in 2017 and his father had left him when he was a child. He submits that as the appellant failed to comply with clause 2(b) of the order enlarging him on bail, the appellant continues to languish in jail, despite being released on bail vide order dated 9th September, 2020. Learned Counsel further submits that as the appellant could not comply with the said clause 2(b), the appellant filed an application seeking modification of the said condition, before the learned Additional Sessions Judge, however, the same was rejected by the learned Additional Sessions Judge vide order dated 23rd October, 2020.

4. Learned APP has no objection if the said condition is modified. Learned Counsel for the respondent No.2 opposes the modification of the condition.

5. Perused the papers. The appellant was arrested in connection with C.R.No.1022 of 2020 registered with the Sangola Police Station, District Solapur, for the alleged offences punishable under Sections 363, 324, 323, 504 r/w 34 of the Indian Penal Code and under Sections 3(1)(r) (s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989.

6. Vide order dated 9th September, 2020, the learned Additional Sessions Judge granted bail to the appellant on certain terms and conditions. Clause 2 of the operative part of the said order reads thus;

“2. Accused, Suraj @ Pillya Prakash Hiwarkar, in C.R.No.1022/2020 registered at Sangola Police Station, be released on executing his P.R.Bond of Rs.15,000/-, with a surety of like amount, with condition that ;

a) he shall furnish copies of two documents as per the Rule 4 in para 12(1 to 6) of Chapter I of Criminal Manual, 1980 about residential addresss, alongwith the certificate of concerned police station regarding physical verification of said residential address.

b) that he shall submit the list of at least three blood relatives with their detail residential addresses and also the addresses of their place of work alongwith the documentary evidence of correctness of the detail produced by them.

c) that, he and his sureties shall undertake to inform the police authorities as well as the Court granting bail, about the change of their residential addresses while he is on bail.

d) that after releasing on bail accused shall report once in a week to the concerned police station and once in a month to the Court granting bail. He shall further report once in three months to the concerned police station and the Court where the case is pending during the pendency of the trial after the chargesheet is filed.

e) he shall co-operate the I.O.as and when required and shall not tamper with the evidence and witness of prosecution in any manner whatsoever.” (Emphasis supplied)

7. The appellant could not comply with clause 2(b) as stated aforesaid as his mother had expired in 2017 and his father had left him

when he was a child. Since the appellant could not comply with the said condition, he filed an application before the learned Judge seeking modification of the said order, however, the learned Judge rejected the said prayer seeking modification observing that it was a mandatory condition and could not be altered.

8. During the course of hearing of the aforesaid appeal, this Court directed the appellant to file affidavits of two persons who would stand as sureties for the appellant. Accordingly, the appellant has filed two affidavits of the sureties i.e. Shri. Dadaso Balu Thombare and Shri. Vasant Ramchandra Khokle. In the said affidavits, the sureties have stated that they know the appellant for the last 10 years. They have stated that the appellant has no relatives as his mother expired in 2017 and that he had no other blood relatives than his mother who expired in 2017. Both the aforesaid persons have stated that they are willing to stand as sureties for the appellant.

9. It is extremely unfortunate that though the appellant was released on bail in September, 2020, he continues to languish in jail till date. Learned Additional Sessions Judge could have well carried out the exercise himself and could have released the appellant by taking note of the

fact, that the appellant had no blood relatives and more particularly, when there were others willing to stand as sureties for the appellant. The reason given by the learned Judge, whilst rejecting the prayer for modification of clause 2(b) is erroneous and unjustifiable.

10. Considering the aforesaid, clause 2(b) of the order dated 9th September, 2020 stands quashed and set aside. The appellant is permitted to furnish bail after giving one or two sureties in the like amount instead of three blood relatives. Rest of the conditions vide order dated 9th September, 2020, to remain as it is.

11. Since the appellant is languishing in jail since 2020, he is released on cash bail in the sum of Rs.15,000/- for a period of six weeks.

12. The appellant shall thereafter, within the said period of six weeks, furnish P.R. Bond in the sum of 15,000/-, with one or two sureties in the like amount.

13. The appeal is allowed and disposed of on the aforesaid terms.

14. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.