

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 1616 OF 2022
IN
CRIMINAL APPEAL NO. 355 OF 2021**

Iqbal Ahmed Kabir Ahmed ... Applicant

Versus

The State of Maharashtra ... Respondent

Ms.Kritika Agarwal for the Applicant.

Mrs.P.P. Shinde, APP for the Respondent – State.

Mrs. Aruna Pai for NIA.

**CORAM : REVATI MOHITE DERE &
V. G. BISHT, JJ.**

DATE : 7th July, 2022

P. C. :

1. By this application, the applicant seeks modification of clause (vi) of the order dated 13th August, 2021 passed in Criminal Appeal No. 355 of 2021, by which the applicant was enlarged on bail. The said clause of which modification is sought reads thus;

“vi] The appellant shall remain within the jurisdiction of the NIA Court, i.e. Greater Mumbai, till the trial is concluded and shall not leave the area without prior permission of the NIA Court”.

2. Learned Counsel for the applicant submits that the applicant was enlarged on bail on certain terms and conditions vide order dated 13th August, 2021. She submits that the applicant has abided by all the conditions and will continue to abide the same. She further submits that in fact, pursuant to the permission granted by the trial Court, the applicant had travelled to Parbhani on several occasions and had come back, as directed by the trial Court, without violating any terms of the condition. She further submits that even the Apex Court had granted liberty to the applicant to file a fresh application and requested this Court to consider the prayer seeking relaxation of the said condition, subject to the exigencies of the trial. Learned Counsel relied on the order of the Apex Court, which at page No. 45 of the application. She further submits that the applicant has no place to live in Mumbai nor has a job, making it extremely difficult for him to stay in Mumbai, considering the high cost of living. She further submits that the family of the applicant, including his 6 year old child, are living in Parbhani. According to learned Counsel, the trial is likely to take a long time, as there are about 250 witnesses to be examined and that till date, not a single witness has been

examined by the prosecution. On an earlier date, the applicant had tendered his affidavit dated 27th June, 2022 in which, the applicant had undertaken to attend each and every date of the proceeding pending before the NIA Court, except in case of medical emergency, in which case his advocate will remain present before the NIA Court. She further submits that vide notification dated 12th December, 2019 issued by the Government of India, the jurisdiction of the NIA Court has been extended to the entire State of Maharashtra.

3. Learned APP opposes the above application.

4. Perused the papers. This Court vide order dated 13th August, 2021 had imposed certain terms and conditions on the applicant.

The said terms and conditions are reproduced as under :

“46.....

i].....

ii]....

iii] The appellant Iqbal Ahmed Kabir Ahmed be released on bail on furnishing a P.R bond in the sum of Rupees One Lakh and one or two solvent sureties in the like amount to the satisfaction of the learned Judge, NIA Court.

iv] The appellant shall report the N.I.A., Mumbai Branch twice every week on Tuesday and Friday, between 10 am to 12 noon, for a period of one month from the date of his release. Thereafter, the appellant shall report the said office on every Tuesday between 10 am to 12 noon for the next two months. Thereafter, the appellant shall report to the said office on first Tuesday of every month between 10 am to 12 noon, till conclusion of the trial.

v] The appellant shall attend each and every date of the proceeding before the NIA Court.

vi] The appellant shall remain within the jurisdiction of the NIA Court, i.e. Greater Mumbai, till the trial is concluded and shall not leave the area without prior permission of the NIA Court.

vii] The appellant shall surrender his passport, if any (if not already surrendered). If the appellant does not hold the passport, he shall file an affidavit to that effect before the NIA Court.

viii] The appellant shall not, either himself or through any other person, tamper with the prosecution evidence

and give threats or inducement to any of prosecution witnesses”.

5. It appears that after the applicant was released on bail, the applicant filed an application seeking modification of aforesaid condition no. (vi). However, this Court vide order dated 27th September, 2021 rejected the said application as the trial was scheduled to commence from 11th October, 2021. The applicant challenged the said order dated 27th September, 2021 before the Apex Court by filing Special Leave Petition and the Apex Court vide order dated 13th April, 2022 observed that barely a month after being enlarged out bail, an application was made before the High Court, seeking relaxation of the said condition and to permit the petitioner to stay at Parbhani. The Apex Court in its order dated 13th April, 2022 after observing that a period of over six months had elapsed since then, granted liberty to the applicant to approach the High Court for relaxation of the said condition. The Apex Court further observed that, in the event, such an application was made, the High Court to consider it afresh, subject to the exigencies of the trial.

6. Pursuant to the said liberty, the aforesaid application has been filed by the applicant afresh seeking relaxation of the said condition i.e. clause (vi), which is reproduced in para 1.

7. It is not in dispute that the Government has issued a notification dated 12th December, 2019 extending the jurisdiction of the NIA Court, to the entire State of Maharashtra. It is also not in dispute, that not a single witness has been examined by the prosecution till date. The applicant has till date, abided by all the conditions imposed by this Court vide order dated 13th August, 2021 whilst enlarging him on bail. It is also not in dispute, that post the said order dated 13th August, 2021, the applicant has visited Parbhani on several occasions with permission of the NIA Court and has attended the trial Court on each and every date of the proceedings before the NIA Court.

8. The applicant has also filed an affidavit in this Court dated 27th June, 2022 stating therein, that pursuant to the order dated 13th August, 2021 enlarging him on bail, he had visited Parbhani on 9

occasions. In paragraph no.2 of the said affidavit, the applicant has given an undertaking that he will attend each and every date of the proceeding before the NIA Court, except in case of medical emergency, where he will be remain present before the NIA Court through his advocate and as such, comply with the condition imposed by this Court.

9. Considering the aforesaid, the application is allowed in terms of prayer clause (a). Clause no. (vi) of the order dated 13th August, 2021 stands modified as under :

vi] The appellant shall remain within the jurisdiction of the NIA Court, till the trial is concluded and shall not leave the jurisdiction without prior permission of the NIA Court.

10. The application stands disposed of accordingly.

11. All parties to act on the authenticated copy of this order.

V. G. BISHT, J.

REVATI MOHITE DERE, J.