

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPP) NO.775 OF 2022
IN
CRIMINAL APPLICATION (BA) NO.415 OF 2019 (D)

Shri Deepak S/o Khubchand Bajaj

Versus

State of Maharashtra, through Economic Offence Wing, Civil Lines, Nagpur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.P. Dharmadhikar, Senior Advocate a/b Shri C.S. Dharmadhikari, Advocate for
the applicant.
Shri T.A. Mirza, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : 22/06/2022

1. This is an application for relaxation of condition of bail, imposed vide order dated 09.09.2021, restraining the applicant from entering the territorial limits of the Nagpur City, till the conclusion of the trial.
2. In this case, on 01.07.2019 the applicant was granted interim bail to undergo open heart surgery.
3. On 09.09.2021, this Court confirmed the bail. This Court while passing detail order has observed that the health condition of the applicant was serious. It is further observed that the committee of doctors constituted by the Dean, J.J. Hospital, Mumbai, after referring to the multiple health issues, recommended that the applicant would have

to abide by the medical advice and follow the medication prescribed by the various medical experts from time to time.

4. It is further observed that the material placed on record, reveals that the applicant is undergoing treatment as an outdoor patient in the Breach Candy, hospital, Mumbai.

5. Thus, considering the medical condition of the applicant, the bail was confirmed in favour of the applicant. However, at the time of confirming the bail a condition was imposed, restraining the applicant to enter the territorial limits of Nagpur City, till the conclusion of the trial, unless his presence is required by the trial Court.

6. Shri Dharmadhikari, Senior Advocate appearing for the applicant, submits that the family of the applicant is at Nagpur, whereas, the applicant is at Mumbai and there is nobody to look after him or to take care of him. He therefore, submits that the said condition may be relaxed.

7. It is submitted that the applicant is continuously ill. He further submits that a period of one year is lapsed, after the bail was confirmed but there is significant progress in the trial, in this one year. It is pointed out that out of 169 witnesses, 34 witnesses have been examined by the prosecution, so far.

8. It is thus, submitted that it will take long time to conclude the trial and looking to the health condition of the applicant, he cannot be asked to stay away from his house and not to enter territorial limits of Nagpur city for uncertain period. Accordingly, he prays for relaxation of the said condition.

9. On the other hand, Shri T.A. Mirza, learned APP opposes the present application and submits that there is every possibility that the applicant may pressurize the witnesses who are yet to be examined by the prosecution and if it happens, there will be no fair trial.

10. From the orders passed by this Court, it can be seen that there are multiple health issues and doctors have recommended the applicant to abide by medical advice and follow the medication prescribed by the doctors. In the trial, up-till now, 34 witnesses have been examined out of total 169 witnesses. This shows that the trial will take long time to conclude.

11. In the above referred peculiar facts and circumstances, I am of the opinion that it would be unfair to ask the applicant to stay away from his home for uncertain period.

12. As far as the apprehension expressed by the learned APP is concerned, some stringent conditions can be

imposed while relaxing the said condition. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) The condition namely, the applicant shall not enter the territorial limits of Nagpur City till the conclusion of trial unless his presence is required by the trial Court, imposed vide order dated 09.09.2021, is hereby relaxed.
- c) However, the State is granted liberty to move an application for cancellation of this order, in case, the State receives complaint against the applicant with sufficient material that he has misused this order and tries to pressurize the prosecution witnesses.

The criminal application is **disposed of**, accordingly.

[ANIL S. KILOR, J.]