

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

**Criminal Application (APPP) No. 849 of 2022
in
Criminal Application (BA) No. 884 of 2019**

Shoiabulla Khan Azharulla Khan Patel

Versus

The State of Maharashtra, through Police Station Officer, Police Station
Akot Rural, Akot Tahsil and District Akola

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

Court's or Judge's Order

Shri A.S.Manohar, Advocate for the applicant.

Shri T.A. Mirza, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 21st JUNE, 2022.

This is an application for relaxation of condition imposed by this Court while granting bail to the applicant that he shall not enter territorial jurisdiction of village Mohala till culmination of the trial.

2. Shri Manohar, learned counsel for the applicant submits that, while granting bail to three accused persons a condition not to enter territorial jurisdiction of village Mohala was imposed for a period of 90 days or filing of the charge-sheet. Whereas, in case

As per order
dt.
24.06.2022,
order
corrected

of other three accused persons, including the applicant, the condition not to enter into territorial jurisdiction of village Mohala, was till culmination of the trial.

3. However, subsequently on request of other two accused persons, such condition was relaxed by this Court vide order dated 8th January, 2021 passed in Misc. Criminal Application No. 1458 of 2020 in Criminal Application (BA) No. 896 of 2019 and vide order dated 17th December, 2021 passed in Criminal Application (APL) No. 1195 of 2021. He thus, submits that as far as five other accused persons are concerned, there is no such condition namely not to enter into the territorial jurisdiction of village Mohada.

4. It is submitted that the mother of the applicant is residing in village Mohada and she is not keeping well and relaxation of the said condition is necessary for the purpose to look after her. Accordingly, he prays for relaxation of condition.

5. Learned Additional Public Prosecutor strongly opposed the application and submits that earlier similar application was moved before this Court and it was rejected by this Court vide order dated 15th February, 2021 and he therefore submits that there is no change in circumstance and accordingly present application is not maintainable.

6. In reply, learned counsel for the applicant submits that order passed by this Court dated 17th December, 2021 in Criminal Application No.1195 of 2021 allowing the application of Rahematullah Khan is subsequent to rejection of application of the applicant as such there is change of circumstance, therefore this application is maintainable.

7. I have perused the application and the order annexed alongwith the application granting bail to the applicant with condition not to enter territorial jurisdiction of village Mohada, the other order granting relaxation of such condition in respect of two other accused persons and rejection the application of the applicant for similar request.

8. The record shows that subsequent to the rejection of the application of the applicant for relaxation of condition, this Court vide order dated 17th December, 2021 allowed the application filed by Rahematullah Khan for relaxation of condition. Thus, the record shows that except the present applicant, such condition is not there for the other accused persons. Moreover, the order of this Court vide order dated 17th December, 2021 is subsequent to the rejection of the application of the application for relaxation of condition.

Thus, I am of the opinion that there is change in circumstances.

9. Considering the fact that this Court has already relaxed similar condition in respect of two accused persons, I am of the opinion that present application needs to be allowed. Accordingly, the application is allowed.

10. The condition not to enter territorial jurisdiction of the village Mohada is hereby relaxed.

11. However, it is made clear that in case of misuse of liberty, the State is at liberty to move application for cancellation of bail.

[ANIL S. KILOR, J.]

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