

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.534 OF 2023

NIKHILESH SHIVKUMAR MANURKAR
VERSUS
THE STATE OF MAHARASHTRA

AND
CRIMINAL WRIT PETITION NO.669 OF 2023

NIKHILESH S/O SHIVKUMAR MANURKAR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Petitioner : Mr. R. S. Deshmukh, Senior

Advocate i/by Mr. D. R. Deshmukh

APP for Respondents: Mr. V. S. Badakh in WP/534/2023

APP for Respondents: Mr. S. P. Sonpawale in WP/669/2023

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CORAM : R.M. JOSHI, J

DATE : JULY 24, 2023

PER COURT :

1. These Petitions are filed taking exception to the imposition of the condition by the learned Additional Sessions Judge, Ambajogai in Criminal Misc. Application No. 14/2023 and learned Additional Sessions Judge, Shrirampur in Criminal Misc. Application No. 12/2023 whereby the Petitioner was directed to deposit a sum of Rs. 5 lacs towards security in the Court.

2. Petitioner herein moved applications for

modification/relaxation of the said condition which came to be rejected by the order dated 13.03.2023 and 18.04.2023.

3. Learned Senior Counsel for the Petitioner states that the condition imposed of deposit of Rs.5 lacs is wholly unjustified. It is his contention that for the purpose of securing the presence of the Petitioner during the course of trial appropriate condition of furnishing personal bond of Rs. 70,000/- with one or two surety is already imposed which is sufficient to secure his presence during trial. According to him surety as called upon is already furnished. It is contended it is not permissible to the Courts to impose conditions of deposit of amount by way of recovery of the amount even indirectly.

4. Learned APP tried to support the said orders by submitting that having regard to the nature of offence and amount of misappropriation involved therein the said condition was imposed.

5. The Hon'ble the Apex Court has time and again reiterated that excessive conditions cannot be imposed

while granting bail and conditions for bail cannot be so onerous that their existence tantamounts to refusal of bail. It has also depreciated the direction issued by the Courts for deposit of the amount involved in alleged misappropriation as condition for grant of bail. Such condition cannot be allowed to be imposed directly or even indirectly. No doubt, the Court has discretion to impose any condition but such condition must be justified. The conditions expected to be imposed are to ensure the presence of accused during trial or to prevent interference in evidence. But this discretion cannot be allowed to be exercised unjudiciously and arbitrarily.

6. The orders passed of grant of bail in present case sufficiently show that in one order the personal bond of Rs. 70,000/- with solvent surety was directed to be furnished. In considered view of this Court, this is more sufficient condition for securing presence of the Petitioner during trial. As far as condition of direction to deposit Rs. 5 lacs is concerned, first of all there is no reason recorded in the order for imposing of such condition and secondly, such condition

being unreasonable cannot be sustained.

7. For want of any justification and it being excessive, the condition so imposed cannot sustain and deserves to be set aside. Hence, Petitions are allowed in terms of prayer clauses 'C' and 'D'.

(R.M. JOSHI, J.)

Malani