

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3855 OF 2023
IN CRIMINAL APPEAL NO.43 OF 2023

1. Mohan s/o Baburao Khillare
 2. Angad s/o Shivaji Khillare
- .. Applicants

Versus

1. The State of Maharashtra
Through In-charge Police Inspector,
Diathan Police Station,
Taluka and District Parbhani.
 2. Bajaj s/o Motiram Kamble
- .. Respondents

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Ms. Nikita Gore h/f Mr. S. R. Sapkal, Advocate for applicants.
Mr. A. M. Phule, APP for respondent No.1 – State.

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**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 19th October, 2023

ORDER :-

- . Not on board. Upon mentioning, mater is taken on board.
2. Heard learned Advocate Ms. Nikita Gore holding for learned Advocate Mr. S. R. Sapkal for the appellant and learned APP Mr. A. M. Phule for the respondent – State.
3. Present application has been filed for relaxation of condition imposed to the bail order passed by this Court in Criminal Appeal No.43 of 2023 on

20.02.2023. The condition that was imposed reads thus :-

“(iv) All the appellants in both the appeals shall not reside at Singnapur, Tq. and Dist. Parbhani till the conclusion of trial. They should reside elsewhere, and before submission of bail papers, all the appellants should give complete address of their proposed residence with their mobile numbers to the Trial Court as well as to the Investigating Officer.”

3. It has been now submitted that applicant No.1 is having agricultural land admeasuring 1.67.00 Acres and applicant No.3 is having agricultural land admeasuring 0.60.00 Acres in Gut No.554 and 557 respectively. They have family members residing at village Singnapur, Taluka and District Parbhani. As the applicants want to look after their family members, they need to be in the village, so also they want to cultivate their land. No purpose is being served in keeping them away. Father of applicant No.2 expired on 05.01.2007 and his mother used to live with him. She is suffering from eye disease and unable to see with her one eye and, therefore, they have prayed for relaxation of the said condition.

4. At the outset, we would like to say that the applicants were arrayed as accused in Crime No.189 of 2022 under Sections 302, 307, 143, 147, 148, 149, 114, 341 of Indian Penal Code and under Section 3(1)(r), 3(1)(s), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989 (hereinafter referred to as the “Atrocities Act”) registered with Daithana Police Station, District Parbhani. While passing the order on 20.02.2023, the entire case was considered. The bail papers were before this Court and also the charge-sheet. Taking into consideration the facts of the case and to protect the interest of the prosecution witnesses, the said condition was imposed. The ground now tried to be given were already considered by this Court and, therefore, no question arises for relaxing the said condition. It is not only the right of an accused to protect his liberty, but it is also the right of the witnesses and it is the duty of the Courts to protect the life and liberty of the witnesses also. Hence, the application stands rejected.

[ABHAY S. WAGHWASE]

JUDGE

scm

[SMT. VIBHA KANKANWADI]

JUDGE