

AGK

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

CRIMINAL APPLICATION NO.415 OF 2023

Gopal Bajirao Ankushrao	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Aniket Nikam with Mr. Ashish Satpute and Mr. Piyush Toshnival i/by Mr. Amit Icham for the applicant.

Ms. M.R. Tidke, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : APRIL 24, 2023

RC.:

1. Condition Nos.1(iv) 2, and 3 of order dated 6 October 2021 passed by the learned Special Judge (MCOCA), Pandharpur is the subject matter of this writ petition that they are unreasonable.
2. The applicant is in jail in connection with offences under Sections 3(1)(i), 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act, 1999 (hereafter "MCOC Act", for short), Sections 302, 303, 120(B), 201, 143, 147, 148 read with 149 of the Indian Penal Code (hereafter 'IPC', for short), Sections 3, 4, 25, 5, 27 of the Indian Arms Act and Section 135 of the Maharashtra Police Act.
3. The applicant filed an application before the Special Court seeking permission to take him to the Office of the Sub-Registrar,

Pune for executing Power of Attorney in favour of his mother in respect of property situated in Village Sus, Taluka Mulshi, District Pune. The learned Special Judge by the impugned order allowed the application imposing conditions.

4. Condition Nos. and 1(iv)2 and 3 reads thus:

“(iv) That the mother of the accused-Mrs. Usha Bajirao Ankushrao is directed to file an undertaking, before this Court on or before 29/10/2021 with assurance to this Court that during the period of that one day, the accused will not indulge into any such activity which adversely affect the public order and public peace and will not commit any offence and will co-operate with the prison authority and with the escort.

2. The violation of any condition of the undertaking that is to say for committing breach of conditions in any manner by the accused, the mother of the accused-Mrs. Usha Bajirao Ankushrao will be liable to face contempt proceeding.

3. The breach of any of the conditions or in case of violation of any of the conditions imposed, the personal bond of the accused and the surety bond of the surety shall be liable to be forfeited.”

5. On perusal of condition Nos.1(iv) 2, and 3, it appears that the applicant was permitted to execute Power of Attorney accompanied by strict, complete and competent escort, strength of which will be determined by the Superintendent of Police. If the applicant is accompanied by such escort, it is not necessary that the applicant should furnish personal bond in the amount of Rs.1 lakh and one solvent surety in the like amount.

6. Condition No.1(iv) directs mother of the accused to furnish

undertaking before Court. The said clause can be modified by directing the applicant to file an undertaking to that effect. Hence, following order:

- a) Condition No.1(iv) is modified to the extent of directing the applicant to furnish undertaking as directed in terms of Condition No.(iv). Instead of mother, the applicant shall file such undertaking;
 - b) Condition No.2 is modified to substitute “applicant” instead of “mother”;
 - c) Condition No.3 of order dated 6 October 2021 is deleted;
 - d) Order dated 6 October 2021 stands modified accordingly.
7. The criminal application is disposed of in these terms. No costs.

(AMIT BORKAR, J.)