

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

CRIMINAL APPLICATION NO. 262 OF 2023

1. Sagar Dharmraj Jadhav
2. Ankush Dyandev Thombare

... Applicants

Versus

The State of Maharashtra

... Respondent

YUGANDHARA
SHARAD
PATIL

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by
YUGANDHARA
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Mr. Rahul Khot, Advocate for the Applicants
Mr. S.V. Gavand, APP for the Respondent-State.

CORAM: M.M.SATHAYE J.
DATE : 13th NOVEMBER 2023
(Vacation Court)

PC. :-

1. This is an Application filed by original Accused Nos. 1 and 2 in Crime No. 350/2023, registered with Vita Police Station, District Sangli for offences punishable under Sections 306, 385, 506 r/w Section 34 of the Indian Penal Code, for relaxation/modification of condition no. (e) in the bail order dated 25/07/2023 passed by the learned Sessions Judge, Sangli in Criminal Bail Application No. 703 of 2023.

2. By the said order, interim bail order dated 05/07/2023 was confirmed and additional conditions were imposed upon the

Applicants, including the condition that they shall not enter into the jurisdiction of village Posewadi, Taluka Khanapur, District-Sangli till further order of the Court. The Applicants moved Criminal Application No. 185 of 2023 for the aforesaid modification in the Court of Sessions Judge, Sangli, which was rejected on 17/10/2023. Therefore, the Applicants are before this Court.

3. Heard the learned Counsel for the Applicants and the learned APP for the Respondent-State. Perused the record.

4. Perusal of the original order dated 25/07/2023 shows that the present Applicants had indulged into certain acts during pendency of their Application for bail, which had resulted into the learned Additional Sessions Judge, Sangli, holding that such conduct of the Applicants requires imposing of stringent conditions. It appears from the record that Applicant No. 2 had filed an FIR No. 240/2021 against one Mahesh Subhash Jadhav (“said Mahesh”) under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities Act), 1989. It is the case of the prosecution that because of this Atrocity Case (240/2021),

said Mahesh was under mental pressure and ultimately the said Atrocity Case and the Applicants allegedly demanding money for withdrawal thereof, said Mahesh has committed suicide. In such facts and circumstances, it is the case of the prosecution that the present Applicants had demanded money in presence of witnesses and after granting of interim relief, the Applicants had celebrated their release by busting the firecrackers etc. It was contended by the prosecution that the Applicants have misused their liberty. In such situation, the learned Additional Sessions Judge had thought it fit to impose the condition that the Applicants shall not enter into jurisdiction of said village Posewadi.

5. It is not in dispute that the Applicant No.1 without seeking any permission from the Court, as contemplated in the said condition (e), had entered into the jurisdiction of said village. Perusal of the rejection Order dated 17/10/2023, further shows that while the Applicant entered the village Posewadi, two N.C. reports and one crime is also registered against Applicant No. 1. The learned counsel for the Applicants has fairly placed on record copies of concerned FIR No. 474/2023 and NC No. 1179/2023 filed against

Applicant No. 1 in the same police station, of which reference is made in paragraph no. 9 of the rejection Order dated 17/10/2023.

6. In the aforesaid facts and circumstances, it is clear that Applicant No. 1, without showing any regard to condition no. 3(e) imposed upon him by the Additional Sessions Judge, Sangli, entered the jurisdiction of said village and indulged into criminal activities which has resulted into registering said NC reports and FIR. In such circumstances, no indulgence can be shown to Applicant No. 1 for relaxation of any condition.

7. Learned Counsel for the Applicants submitted that investigation is already completed in the matter and charge-sheet is also filed against both of the Applicants. In the considered view of this Court, mere fact that the investigation is complete and charge-sheet is filed, would not entitle the Applicant No. 1 to any relaxation of condition, if, he is not following the orders of the Court and abiding by the conditions imposed upon him while granting bail. For this reason, so far as Applicant No. 1 is concerned, the present application is rejected.

8. So far as prayer of Applicant No. 2 is concerned, there is nothing on record, that could be pointed out by the learned APP, to show that Applicant No. 2 has also breached condition no. (e) and entered the said village. From the rejection Order dt. 17/10/2023 , nothing can be seen as to why his case should be considered in the light of aforesaid N.C. Reports and crime, which are not filed against Applicant No. 2. Applicant No. 2 is stated to be Sarpanch of village Posewadi. In the application filed by Applicant No. 2 (Misc. Application No. 185 of 2023), it is contended that Gram Panchayat is under the control of Panchyat Samiti and BDO and reportedly, the BDO is facing difficulty due to absence of Sarpanch from the village.

9. In that view of the matter, the Application is allowed for Applicant No. 2 - Ankush Dyandev Thombare. He is permitted to enter village Posewadi. However, Applicant No. 2 is directed to abide by remaining conditions of bail order dated 25/07/2023.

10. Needless to mention that in case the Applicant No. 2 breaches any of the remaining conditions of bail Order dt. 25/07/2023, the prosecution is at liberty to take appropriate action.

11. The Criminal Application is disposed of in above terms.
12. All concerned to act upon authenticated or digitally signed copy of this order.

[M.M.SATHAYE,J.]