

Vipin Dinesh Upadhyay and anr	..	Applicants
Versus		
State of Maharashtra and anr	..	Respondents
...		

CORAM: BHARATI DANGRE, J.
DATED : 21st AUGUST, 2023

The applicants came to be arrested by Nayanagar Police Station, but they were released on bail by order dated 27/05/2019, which imposed certain conditions; the primary

amongst them being a condition not to leave the jurisdiction, without prior permission of the Court and attending the Police Station before the Investigating Officer on every Monday and Friday, till filing of the chargesheet.

3 The respondent no.2 approached the Court seeking cancellation of the bail of the applicants on the ground that they have flouted the condition of bail, and in specific, by alleging that they are residing in Ankleshwar, Gujarat and are not attending the Police Station and have failed to render cooperation to the Investigating Officer.

4 The Additional Sessions Judge considered the application and also recorded the say produced on behalf of the Investigating Officer, to the effect that they had not regularly attended the Police Station.

 Accepting the allegations to be truthful on both the counts, the bail granted, came to be cancelled, on ground of the breach committed.

5 On the said order being assailed before this Court on 15/02/2022, the time to surrender before the trial court was extended from time to time.

 The counsel for the respondent no.2 would vehemently urge about the breach of the conditions imposed and in particular, not leaving the jurisdiction. However, when I perused the order dated 27/05/2019, it record the submission of the Advocate for the accused that they are permanent residents of Gujarat State, and in para 4, the learned Judge record that the

accused are permanent residents of Thane.

In the operative portion of the order, the Magistrate has not offered any clarification as far as condition no. (c) is concerned.

6 The counsel for the applicants specifically submit that the applicants had travelled to Gujarat during Corona period, but at present, they are residing at Thane.

The aforesaid statement is strongly contested by the other side, but in any case, if this comes as a statement from the accused, they shall necessarily report to the concerned Police Station on first Monday of every month between 11:00 a.m to 1:00 p.m and shall also mark their presence before the Magistrate, Thane in the ongoing trial, unless specifically exempted.

Any three consecutive defaults in their appearance before the trial, would entail a liberty in the respondent no.2 to seek cancellation of the bail, as it would amount to prolonging the trial.

With this clarification being offered, I deem it appropriate to quash and set aside the impugned order, subject to compliance of the aforesaid stipulations.

(SMT. BHARATI DANGRE, J.)