



Diksha Rane

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

WRIT PETITION NO.1947 OF 2023

BHARAT ATMARAM PATIL

..PETITIONER

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Petitioner in person.

Ms. Veera Shinde, APP for the State.

API Kanase, EOW, Palghar.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 21, 2023.

P.C. :

- 1.** Heard the petitioner in person. Learned APP for the State opposed the petition.
- 2.** This writ petition is filed for modification of the conditions (4) and (5) of the order dated 1/6/2021 of the Sessions Court while enlarging the applicant on bail.
- 3.** To consider whether the relief sought by the petitioner can be granted, for ease of reference the order passed below Exhibit 1 enlarging the applicant on bail by the Sessions Court needs to be reproduced, which reads thus:-

“1] This is an application under section 439 of Cr.P.C for releasing applicant/accused on bail in C.RNo. 1-48/2018

registered at Palghar Police Station for offence punishable under sections 420, 465, 467, 468, 472, 473, 474, 120B, 511, 471 r/w.34 of the Indian Penal Code.

2] Heard submission of both advocates. Perused say.

3] Prosecution case in short is that, some employees on the posts of peon appointed in Zilla Parishad Palghar under the Scheme of Adjustment (Samayojan). The employees were out of Palghar District, hence, local persons have made complaint against the appointment of employees. High level inquiry made by the Government Officers. In inquiry it reveals that, some persons prepared bogus G.R. in the name of State Government and forwarded to Zilla Parishad Palghar along with list of bogus employees and on that basis Zilla Parishad Palghar issued appointment letters. The accused involved in this crime has also prepared false and fabricated Government circulars and prepared bogus list of employees under the adjustment (Samayojan) scheme.

4] As per submission of applicant advocate that in earlier departmental inquiry, no adverse remarks found against applicant Statement of applicant and specimen signature is already obtained. Report of the Hand-writing Expert is not yet received. Applicant is falsely implicated. All co-accused are released by this Court and Hon'ble High Court, therefore, pray to release applicant on bail.

5] Submission of I.O. that on the basis of circular in signature of applicant bogus appointment of employee by accepting lakhs of amount from them, therefore, pray for rejection of application.

6] I have perused the application and police papers. At the time of bogus appointment applicant was working as Upper Secretary, in Department of Gram Vikas and Jalsandharan of Government of Maharashtra. The alleged appointment orders shows signature and the name of present applicant. Same is denied by applicant. As on today, no report of Handwriting

Expert in charge- sheet. Another allegation that steno of applicant given statement that some of co-accused meeting applicant and there is transaction between them. Though the offence is registered in 2018, present applicant is arrested on 28/01/2021. All co-accused are released on bail. Considering all co-accused granted bail, present applicant can be released on bail by imposing certain conditions. Hence, I pass following order.

ORDER

- 1] Application is allowed.
- 2] Accused be released on furnishing P.B. and S.B. of Rs.1,00,000/-.
- 3] He shall not tamper with the prosecution witnesses.
- 4] He shall not leave India prior permission of trial Court.
- 5] Prior to release, applicant to deposit passport.
- 6] Bail before Lower Court."

4. Learned counsel for the petitioner has relied upon various decisions to submit that the petitioner's right to travel abroad cannot be curtailed. It is further submitted that since the investigation is complete and the charge-sheet has been filed and as the petitioner is in active Government service in a responsible position, there is no reason for the trial Court or the investigating officer to withhold the passport. It is submitted that continuing the conditions (4) and (5) of the dated 1/6/2021 is unnecessary as it seriously prejudices the right of the applicant to hold

the passport and to travel abroad.

5. It is then submitted by the petitioner that the petitioner requires his passport for the purpose of enabling his son to make an application for a passport as he is applying for higher education to colleges in United States of America, United Kingdom and Canada. Paragraphs 7, 8 and 9 of the application filed before the Sessions Court by the petitioner reads thus:-

“7. During the pendency of the proceeding the passport bearing No.M8336501 of applicant's son has expired on 23/04/2020. Hereto annexed and marked Annexure-"1" is the Copy of the Passport.

8. That a valid passport is required by the applicant's son for his vocation & studies abroad. He is applying for his higher education to colleges in United States of Amercia, United Kingdom and Canada.

9. That due to non availability of applicant's passport, the passport authority will not renew the passport of the applicant's son. As a guardian parent the applicant needs to be present in the Regional Passport Office, Mumbai with his minor son for renewing his passport. Passport is a public document essential to prove the citizenship of the country and it is a mandatory document to go abroad for earning his livelihood/pleasure.”

6. Considering the accusations against the petitioner, I do not find that the conditions imposed viz. conditions (4)

and (5) are in any manner unreasonable which are conditions imposed by the Sessions Court in its discretion while enlarging the applicant on bail. There is no impediment on the petitioner traveling abroad as the only condition imposed by the Sessions Court is that the applicant shall not leave India without prior permission of trial Court. As and when the petitioner wants to travel abroad, it is always open for him to make an application before the appropriate Court, which application obviously will be considered on its own merits. The condition regarding deposit of the passport also cannot be said to be unreasonable having regard to the nature of accusations against the petitioner.

7. However, I do find merit in the submission of the petitioner that if for renewal of his son's passport, the petitioner's passport is required by the authorities, there is no reason why the petitioner should not be handed over the passport for a limited duration and for the purpose of enabling the petitioner's son to get his passport renewed. In case, the petitioner approaches the Sessions Court with the request that his son is applying for fresh/renewal of his

passport, for which the petitioner's passport is required, the same shall be handed over to the petitioner for the limited purpose after obtaining an undertaking that the passport shall be deposited with the trial Court once the purpose of his son's passport renewal is served. In any case, the petitioner's son cannot be made to suffer because the petitioner is facing accusations. It needs to be borne in mind that the petitioner holds a responsible position in the Government of Maharashtra who can be expected to abide by the orders passed by the Court.

8. With these observations the writ petition is disposed of.

(M. S. KARNIK, J.)