

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

CRIMINAL WRIT PETITION NO. 2395 OF 2023

Godhumal Narayandas Kishnani and Anr. ...Petitioners
vs.
State of Maharashtra ...Respondent

**ALONG WITH
CRIMINAL WRIT PETITION NO. 2396 OF 2023**

Smt.Jankibai Purshottam Sharma and Ors. ...Petitioners
vs.
State of Maharashtra ...Respondent

Mr.Subhash Jha a/w Ms.Shraddha Kataria i/b. Law Global –
Advocates for Petitioners in both Writ Petitions.
Mr.H.J.Dedhia – APP for Respondent – State in both Writ Petitions.

CORAM : S. M. MODAK, J.

DATED : 21ST JULY 2023

P. C. :

1. Heard learned Advocate Shri.Jha for the Petitioners and learned APP.
2. It is true that the Court of Additional Sessions Judge – Kalyan has granted anticipatory bail to these Petitioners by two separate orders. One of the conditions is to give attendance on every Monday in between 11.00 to 2.00 p.m. till filing of the charge-sheet or 60

days from the date of order. The period of 60 days is about to over in the month of August-2023. Charge-sheet is not yet filed as the investigation is still going on.

3. The Applicant – Jankibai in Criminal Writ Petition No.2396 of 2023 is 86 years old and the Investigating Agency do not want to interrogate her in the Police Station. But, if they want, they are ready to interrogate her by visiting her house. So far as other other Applicants are concerned, learned APP is having strong objection for relaxation of the conditions, even for remaining the period. The Prosecution wants to challenge those orders and they have already moved the Law and Justice Department.

4. It is true that once the proposal is accepted, an Application for cancellation of bail will be moved before this Court. It is also contended that these Applicants have not cooperated the investigation and the offence is serious.

5. As against this, according to Mr.Jha, when learned trial Judge has given a finding thereby doubting the FIR, he ought not to have given attendance. After the impugned orders are passed, I feel that the attendance condition can be relaxed now. At the same time, the interest of the Investigating Agency needs to be protected. If in future, the Applicants are called for interrogation, there has to be

some check on their activities, so that, their presence can be secured.

6. Learned APP submitted that they have not accepted the sureties because they are aggrieved by the said order. So, question of accepting the surety by the Police will not arise. But, what this Court feels is that the surety can be accepted by the concerned Court of JMFC – Ulhasnagar. Because, if they will surrender before the Court, it amounts to custody of the concerned Court. The arrest can either by the Investigating Agency or when surrendered before the Court. So, what I feel is that the Applicants can be directed to furnish surety as directed by Court of Additional Session Judge, Kalyan by appearing before the concerned Court of JMFC. Even though it is true that there is no prayer to that effect, this Court can certainly pass that direction in order to protect the interest of the Investigating Agency. Hence, following order :-

O R D E R

- (i) Writ Petitions are allowed.
- (ii) The condition granted by the Court of Additional Sessions Judge to attend the Police Station by both the orders is cancelled.
- (iii) Let all the Applicants to appear before the concerned Court of JMFC – Ulhasnagar, within two weeks.
- (iv) The concerned Court of JMFC is directed to accept their surety as directed by the Court of Additional Session Judge, Kalyan.

7. All concerned to act on an authenticated copy of this order.
8. Both the Writ Petitions are disposed of in the aforesaid terms.

[S. M. MODAK, J.]