



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2677 OF 2022
IN
CRIMINAL APPEAL NO. 1122 OF 2019

Omprakash Basantlal Goenka

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Amit Icham for the applicant

Mr. K. V. Saste APP for the State

CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.

DATE : 7th OCTOBER 2023

P.C. :

1. This application is filed by the applicant in the aforesaid appeal praying for deletion and/or modification of the condition Nos. (iv), (v) and (vi) imposed on the applicant by an order dated 27th September 2019 and 18th October 2019 passed in aforesaid Criminal Appeal No. 1122 of 2019. At the outset, we may note that although deletion/modification of condition (v) of the order dated

27th September 2019 is prayed, learned counsel for the applicant does not press for deletion/modification of the same and as such seeks liberty to file a fresh application *vis-a-vis* the said prayer. Liberty granted.

2. The said conditions of which modification is sought read thus:

(iv) The Appellant shall stay in Mumbai and shall not leave Mumbai except with prior permission of the trial Court for attending the matter pending in the Hon'ble Apex Court and for any other purpose.

(v) The Appellant shall not leave India without prior permission of the trial Court and cooperate in the investigation and shall not try to contact or influence the prosecution witnesses;

(vi) The Appellant shall visit Economic Offences Wing, Mumbai, on every Sunday between 11.00 am to 2.00 pm.

3. In support of the submissions made on behalf of the applicant, learned counsel for the applicant has tendered an affidavit-cum-

undertaking dated 7th October 2023 duly sworn by the applicant thereby undertaking that he shall attend the Trial Court on every date, except if the dates clash between the dates of other Courts, and if he is unable to attend the Trial Court for such reason, then in that event, his Advocate shall remain present. In the affidavit-cum-undertaking, the applicant has disclosed his address and has undertaken that in the event he is required to travel within India, he shall provide his travel details and address to the office of Economic Offences Wing, (“EOW”) Mumbai.

4. Learned counsel for the applicant submitted that the applicant originally belongs to Kanpur, Uttar Pradesh and has an ailing father who is 97 years of age, residing at Kanpur. Hence, the applicant is required to visit Kanpur to take care of his father. Hence, learned counsel for the applicant submitted that in the aforesaid facts and circumstances, the applicant is pressing for modification of only conditions Nos. (iv) and (vi) of the order dated 27th September 2019 read with order dated 18th October 2019.

5. Learned counsel submitted that as per the condition imposed by clause (iv), the applicant is not permitted to leave Mumbai except with prior permission of the Trial Court for attending the matter pending before the Apex Court and for any other purpose. He submitted that as per the condition no. (vi), the applicant is directed to visit the EOW, Mumbai on every Sunday between 11.00 a.m. to 2.00 p.m. By an order dated 18th October 2019, said condition is modified by directing the applicant to visit the office of EOW, Mumbai on every Friday between 11.00 a.m. to 2.00 p.m. By the said order, the applicant was directed to intimate in writing to the office of EOW, if he was required to go to Delhi to attend his matter in the Supreme Court. Learned counsel further submitted that in view of the affidavit-cum-undertaking submitted on behalf of the applicant, the conditions imposed by clause (iv) and (vi) of order dated 27th September 2019 and modified by an order dated 18th October 2019, be further modified by accepting the affidavit-cum-undertaking submitted on behalf of the applicant.

6. In view of the said affidavit-cum-undertaking filed by the

applicant, learned APP does not dispute the grounds raised on behalf of the applicant for modification of the aforesaid conditions.

7. The affidavit-cum-undertaking dated 7th October 2023 submitted by the applicant is taken on record. For the reasons stated in the application and considering the affidavit-cum-undertaking submitted by the applicant, we are inclined to modify condition nos. (iv) and (vi) of order dated 27th September 2019 and modified by order dated 18th October 2019 by passing the following order:

ORDER

(i) The applicant is permitted to travel out of Mumbai on condition that he shall attend the Trial Court on every date without fail unless he is required to attend the Apex Court or any other Court on the same day, provided on that date he is represented through an Advocate.

(ii) The applicant shall attend the EOW, Mumbai, on the first Monday of every alternate Month i.e. once in two

months between 11:00 a.m. to 2:00 p.m. starting from the first Monday of November 2023.

(iii) The rest of the conditions imposed by the order dated 27th September 2019 shall remain as it is.

(iv) Needless to record that in case of any breach of the conditions imposed by the order dated 27th September 2019 and as modified herein above, the prosecution will be at liberty to move for cancellation of bail.

(v) The application is disposed of in the above terms.

All the parties to act on the authenticated copy of this order.

GAURI GODSE, J.

REVATI MOHITE DERE, J.