

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [APPA] NO. 158/2023
IN CRIMINAL APPEAL NO.907/2022.

Suresh Kashiram Mapari.

-VERSUS-

State of Maharashtra and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A.M. Ghare, Advocate for the Applicant.
Shri M. Khan, A.P.P. for Non-applicant Nos.1 and 2.
Shri S.K. Wankhede, Advocate for Non-applicant No.3.

CORAM : VINAY JOSHI AND
VALMIKI SA MENEZES, JJ.

DATE : FEBRUARY 08, 2023.

Heard.

2. On oral request made by the applicant, he is permitted to amend the application by correcting the date 19.02.2023 as 16.02.2023 appearing in the body of the application.

Necessary correction be carried out forthwith.

3. This is an application seeking limited relief of relaxing the condition of staying outside the jurisdiction of Washim District for specific two

dates i.e. 09.02.2023 and 16.02.2023. In short, the applicant is seeking permission to enter into the Washim District on aforesaid two dates.

4. The applicant was arrested in connection with Crime No.857/2022 registered with Police Station Washim City for the offence punishable under Sections 307, 120-B read with Section 34 of the Indian Penal Code and Section 3[2][va] of the Scheduled Caste and Scheduled Tribes [Prevention of Atrocities] Act, 1989. The applicant has applied for bail to the Special Court, however, his application was rejected that is why he filed an appeal in terms of Section 14-A of the Atrocities Act. The said appeal was heard and decided by this Court vide judgment and order dated 09.01.2023. While releasing the applicant on bail, this Court has imposed several conditions amongst which condition no.[iii] runs as below :

“[iii] The appellant/accused shall not enter into the territorial jurisdiction of entire Washim District till the filing of the charge sheet or for a period of 90 days from today, whichever ever is earlier.”

5. It is the contention of the applicant that in pursuance of said condition, from the date of release, he is staying at Post Savna Vaichal Pimpri, Ta. Sengaon, District Hingoli, till date. It is further contention of the applicant that he is Chairman of the Finance and Works Committee of Zilla Parishad Washim, which is called as a "Subject Committee". Meeting of the said Committee has been fixed on 09.02.2023 at Washim for preparation of Budget and the applicant in the capacity of Chairman of the Subject Committee is supposed to present the budget on 16.02.2023. It is therefore, his contention that in order to comply with the said obligation, it is necessary for him to enter into Washim District for aforesaid purpose.

6. The learned Counsel for the applicant has attracted our attention to Section 82[2] and 85 of the Maharashtra Zilla Parishad and Panchayat Samiti Act, stating the consequences of absence in the meeting about disqualification. Thus, for the aforesaid reason, the applicant has sought permission to enter Washim District.

7. The learned Counsel appearing on behalf of the informant has resisted this application on two grounds; firstly the offence committed by the applicant is of serious nature, discharge summary of injured shows that the injuries were of serious and grave nature. The second submission is about possibility of applicant pressurizing the victim cannot be ruled out.

8. So far as the first submission is concerned, we are not inclined to consider the same since already the nature of injury and the manner of allegations are considered by this Court and ultimately we have exercised the discretion of releasing the applicant on bail, therefore, this ground cannot confine us at all.

As regards the second submission is concerned, it is submitted that the injured as well as the applicant belongs to same party, and therefore there is likelihood of pressurizing the victim. Moreover, it is submitted that at present also though the applicant is staying out of Washim District, efforts of pressurizing the victim have

been made. At present there is no material to hold that the applicant has pressurized the victim, as not a single N.C. report has been lodged, nor any particulars have been brought on record. True, if the applicant enters into Washim District there may be chance of tampering, however, necessary safeguards, would suffice the purpose. Particularly, we have noted the reason for seeking permission, which is quite appropriate and its truthfulness is not in dispute.

9. In view of above, Criminal Application is allowed and disposed of. The applicant is permitted to enter in Washim District on 09.02.2023 and 16.02.2023, with a rider that on both dates, after accomplishment of the Subject Committee work, he shall immediately leave Washim District. We also put applicant on notice that during his visit, if he contravenes any other condition of bail, this Court may pass appropriate order if occasion therefor arises.

10. Copy of this order be furnished to the learned Counsel for the applicant to act upon.

JUDGE

JUDGE