



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 526 OF 2024

Vijay Vishnuprasad Marda ... Petitioner

VERSUS

The State Of Maharashtra
And Another ... Respondents

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CRIMINAL WRIT PETITION NO. 530 OF 2024

Vijay Vishnuprasad Marda ... Petitioner

VERSUS

The State Of Maharashtra
And Another ... Respondents

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Mr. Ashish T. Jadhavar, Advocate for Petitioner
Mr. S.P. Sonpawale, APP for Respondent Nos.1 and 2 – State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 19th APRIL, 2024

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties, at admission stage.

2. Petitioner, by criminal writ petition No. 526/2024 filed under Articles 226 and 227 of the Constitution of India read with section 439(1)(a) and section 482 of the Code of Criminal Procedure, challenges the condition imposed on him to attend concerned police station on every Monday, till next order and

by filing criminal writ petition no.530/2024, challenges the order passed in Criminal Misc. Application No.21/2024, rejecting his prayer for relaxation of condition to attend concerned police station.

3. Petitioner is arrayed as accused No.19 in Crime No. I-419/2018 registered with Kotwali Police Station, Ahmednagar on 26.09.2018. In the said crime, initially charge-sheet was filed on 24.03.2021, wherein the name of petitioner was not mentioned. On 14.03.2023, petitioner came to be arrested in the said crime and he was released on bail by order dated 20.01.2024. In the meanwhile, supplementary charge-sheet in the crime is filed on 17.01.2024. While releasing petitioner on bail, a condition was imposed on him to attend concerned police station on every Monday till next order. Petitioner failed to attend the police station pursuant to condition imposed by the trial Court. Petitioner then filed application seeking relaxation of condition of attendance on the ground that charge-sheet is filed. Petitioner filed Criminal Misc. Application for relaxation of condition before the trial Court, the same is rejected. Hence, the present petitions.

4. Heard learned advocate for petitioner, learned APP for respondents – State. Perused memo of writ petitions, annexures thereto and impugned orders.

5. Petitioner is a Chartered Accountant by profession. He claims that since charge-sheet in the present crime was filed on 24.03.2021 and supplementary charge-sheet is filed on 17.01.2024, the trial Court ought not to have imposed condition of attendance on him in view of filing of supplementary charge-sheet on 17.01.2024, as the condition is imposed by the trial Court on 20.01.2024. He further submits that due to his ill-health and death of his mother, on some dates, he failed to attend the concerned police station and on that ground alone, trial Court has rejected his application for relaxation of condition. He submits that in view of filing of charge-sheet, the condition imposed on him needs to be relaxed.

6. Learned APP on the other hand strenuously opposed the petitions contending that there is breach of condition on the part of petitioner, and therefore, the trial Court is justified in rejecting his application for relaxation of condition. He has pointed out that in the application in relaxation of condition there is not a single statement made by petitioner that for

particular reason, he failed to attend the police station on certain dates. He submits that since petitioner has breached the condition, petitioner is not entitled for relief of relaxation.

7. Perusal of record indicates that, after filing of charge-sheet on 17.01.2024, condition was imposed by the trial Court on 20.01.2024 directing petitioner to attend the concerned police station on every Monday, till next order. Record further reveals that while releasing co-accused in the present crime, no such condition of attending police station is imposed by the trial Court. Co-accused were directed to attend concerned police station till filing of charge-sheet. Fact remains that petitioner has failed to attend the concerned police station in terms of condition imposed on him on certain dates. In the peculiar facts, this Court is inclined to allow the petitions, however, on certain conditions. Hence, the following order.

ORDER

- (I) Both writ petitions are allowed.
- (II) Impugned order dated 20.01.2024 passed by learned Additional Sessions Judge, Ahmednagar in Criminal Bail Application No.2057/2023 to the extent of condition No.2(iii), is hereby quashed and set aside.

- (III) Impugned order dated 22.02.2024 passed by learned Additional Sessions Judge, Ahmednagar in Criminal Misc. Application No.21/2024, is hereby quashed and set aside.
- (IV) Impugned condition No.2(iii) in respect of attending the concerned police station on every Monday, till next order, is hereby quashed and set aside.
- (V) Petitioner shall deposit an amount of Rs.50,000/- in the trial Court for disobedience of condition imposed on him.

Rule is made absolute in the above terms.

[NITIN B. SURYAWANSHI]
JUDGE