



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 1850 OF 2024
IN APPEAL/986/2023**

Madhukar s/o Namdeo Dethe
Age: 42 years, Occu.: Agriculture,
Original R/o. : Village Ambegaon,
Taluka : Jafrabad, District : Jalna,
At present residing at Deulgaon Raja,
Taluka : Deulgaon Raja, Dist.Buldhana.

..Applicant /
Appellant
(Orig. Accused No.1)

Versus

1. The State of Maharashtra
Through the Officer Incharge,
Sadar Bazar Police Station, Jana,
Taluka and District : Jalna.
2. Krushna s/o Vishwasrao Hivale
Age: 38 years, Occu.: Agriculture,
R/o. Village Ambegaon, Taluka:
Jafrabad, Dist.Jalna.
3. Santosh s/o. Gangarao Hivale
Age: 58 years, Occu.: Agriculture,
R/o. Village Dongaon, Taluka
Jafrabad, Dist.Jalna.

.....Respondents
(No.1 – Prosecution and
Nos.2 and 3 are PW-1 &
PW-4/injured witnesses/
granted compensation)

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Advocate for Applicant : Mr.Jay Veer h/f. Mr. Devang R.Deshmukh
APP for Respondent no.1 : Mr.N.D.Batule

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CORAM : ABHAY S. WAGHWASE, J.

DATE : 06 MAY, 2024

ORDER :-

1. By way of instant application, applicant / appellant, who has preferred Criminal Appeal bearing no.986 of 2023 and who is a beneficiary of bail order at the hands of this Court, has put up following prayer :

“B. The prior permission to enter the Applicant/accused No.1 on 13th May, 2024 in the vicinity of village Ambegaon, Taluka Jafrabad, District Jalna, so as to enable him to cast his vote at the Booth therein for the ensuing Parliamentary General Elections-2024 to be held on 13th May, 2024, may kindly be granted.”

2. Learned Counsel for the applicant pointed out that instant application is for relaxation of condition imposed by this Court. He invited attention of this Court to the order passed by this Court on 05-01-2024 by which his application under Section 389 of the Code of Criminal Procedure has been entertained by this Court. It is next submitted that applicant is a voter and in upcoming Parliamentary

General Elections-2024, he has a right to cast his vote. That voting is scheduled on 13-05-2024. He is listed as a voter in village Ambegaon. Therefore, to enable him to exercise right to vote, it is prayed that condition to not to enter the vicinity of village Ambegaon, Tal. Jafrabad, Dist.Jalna be relaxed.

3. Learned APP, while opposing the prayer pointed out that he is already involved in offence under Sections 307, 341 read with 34 of the Indian Penal Code (IPC). That this Court by order dated 05-01-2024 has imposed a condition to not to enter vicinity of village Ambegaon, Tal. Jafrabad, Dist.Jalna during pendency of the appeal. He pointed out that there is already enmity between two parties, therefore, it is not just and proper to relax the condition. However, he fairly stated that appropriate orders as deemed fit by this Court be granted.

4. After considering the submissions so advanced and on going through the papers, it seems that by virtue of order dated 29-09-2023 passed by the learned Additional Sessions Judge, Jalna, applicant was convicted for offence under Sections 307, 341 read with Section 34 of the Indian Penal Code and was sentenced to

suffer rigorous imprisonment for ten years and one month respectively. Said judgment seems to have taken exception to by filing Criminal Appeal No.986 of 2023. Papers further show that by invoking provisions under Section 389 of the Cr.P.C. applicant preferred application before this Court seeking bail as well as to get sentenced suspended during pendency of appeal. This Court while dealing with said Criminal Application No.3851 of 2023 by order dated 05-01-2024 has granted said reliefs. However, by virtue of clause (v) of the operative part of the said order, applicant was prevented from entering village Ambegaon, Tal.Jafrabad, Dist.Jalna, till decision of the appeal.

5. Now case as put forth by the learned Counsel for the applicant is that applicant being a voter, he is desirous of casting vote. Statement is made on oath that he is a voter and his name is enlisted in the voter list. Admittedly, voting of Parliamentary General Elections-2024 is scheduled on 13-05-2024 in this region. Therefore, in order to enable applicant to exercise adult franchise, this Court is inclined to relax the condition by allowing the application. Accordingly, following order is passed :

ORDER

(i) Application is allowed.

(ii) Applicant Madhukar S/o Namdeo Dethe is permitted to enter village Ambegaon, Taluka Jafrabad, Dist.Jalna on 13-05-2024 between 09:30 a.m. to 10:30 a.m. i.e. for a period of one hour to cast his vote in Parliamentary General Elections-2024.

(iii) Applicant should give an undertaking that he will not misuse liberty or indulge in any illegal / criminal activity during such period of one hour.

(ABHAY S. WAGHWASE)
JUDGE