

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

*INTERIM APPLICATION NO. 263 OF 2024
IN
CRIMINAL APPLICATION NO. 1404 OF 2010
IN
CRIMINAL APPEAL NO. 654 OF 2004*

Kasim Mohammad Abdul Kadar ...Applicant
Versus
State of Maharashtra
(through D. N. Nagar Police Station) ...Respondent

Mr. Abdul Kader Millwala, for the Applicant.

Ms A. S. Gotad, A.P.P, for the Respondent – State.

***CORAM : REVATI MOHITE DERE &
MANJUSHA DESHPANDE, JJ.***

DATE : 22nd FEBRUARY 2024

P.C. :

1. By this application, the applicant seeks modification / deletion of clauses (ii) and (iii) of paragraph No. 2 of the order dated 21st December 2010.
2. The conditions of which modification / deletion is sought, read thus:

(ii) The Applicant shall not enter District Mumbai while on bail except to attend pending criminal case against him, if any, only on the relevant dates.

(iii) The Applicant shall report to the nearest police station where he would ordinarily reside once in two weeks on first and third Monday of every English calendar month between 10.30 a.m. to 12.30 p.m. This condition will be relaxed if the criminal case coincides with first or third Monday, as the Applicant will be required to attend court proceedings on those days.

3. Learned counsel for the applicant submits that this Court (Coram: Revati Mohite Dere & Manjusha Deshpande, JJ.), vide order dated 11th January 2024, had modified a similar condition imposed in the bail order of Noor Mohammed Abdul Gafoor. Learned A.P.P. does not dispute the same.

4. Perused the application. It appears that the applicant alongwith other co-accused were convicted vide Judgment and Order dated 13th January 2004, passed by the learned Additional Sessions Judge, Greater Bombay, in Sessions Case No. 1195 of 1992, for the offences punishable under Section 302 r/w 34 of the Indian Penal Code, and

were sentenced to suffer imprisonment for life. Against the said judgment and order of conviction and sentence, the applicant has preferred the aforesaid appeal, i.e. Criminal Appeal No. 654 of 2004. In the said appeal, the applicant filed an application i.e. Criminal Application No. 1404 of 2010, and prayed therein for suspension of the sentence and enlargement on bail, pending the hearing and final disposal of his aforesaid appeal.

5. This Court (Coram: A. M. Khanwilkar & A. P. Bhangale, JJ.) vide order dated 21st December 2010, suspended the sentence of the applicant and enlarged the applicant on bail, pending the hearing and final disposal of his aforesaid appeal, on certain terms and conditions stipulated in paragraph No. 2. The said terms and conditions read thus:

i) The Applicant shall furnish bail bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

ii) The Applicant shall not enter District Mumbai while on bail except to attend pending criminal case against him, if any, only on the relevant dates.

iii) The Applicant shall report to the nearest police station where he would ordinarily reside once in two weeks on first and third Monday of every English calendar month between 10.30 a.m. to 12.30 p.m. This condition will be relaxed if the criminal case coincides with first or third Monday, as the Applicant will be required to attend court proceedings on those days.

iv) The Applicant shall furnish his latest address and also give 48 hours advance intimation in writing to the concerned police station, in the event he intends to travel outside the area of his latest address and shall furnish his travel plan as well as contact numbers, if any.

v) The Applicant shall not indulge in any criminal activity during such time nor threaten the witnesses in the pending criminal cases during this period.

6. Learned Counsel for the applicant submits that post the applicant's release on bail, the applicant has not entered Mumbai District and is residing in Thane. He submits that, during the period 2010 till date, the applicant has not committed any offence. Learned APP does not dispute the same. It is also not in dispute that we have

modified/deleted the said conditions in an application filed by co-accused Noor Mohammed Abdul Gafoor.

7. Considering that the applicant is residing outside Mumbai District for the last 14 years, we allow the application. Accordingly, the conditions imposed by this Court, vide order dated 21st December 2010 i.e. clause Nos. (ii) and (iii) stands modified as under:

(i) The applicant is now permitted to enter and reside in Mumbai District.

(ii) The applicant shall now report to the nearest police station where he intends to reside, once in a month i.e. on the first Saturday of every month between 10:30 a.m. to 12:30 p.m. till the disposal of his aforesaid appeal.

8. The Application is allowed and disposed of in the aforesaid terms.

MANJUSHA DESHPANDE, J.

REVATI MOHITE DERE, J.