

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

***INTERIM APPLICATION NO.4720 OF 2023
IN
APPEAL NO.542 OF 2004***

Noor Mohammed Abdul Gafoor ... Applicant/Appellant

Versus

The State of Maharashtra ... Respondent

***ALONGWITH
APPEAL NO.541 OF 2004***

Mohammed Yasin Mohammed Akbar
Khan and Anr. ... Appellant

Versus

Senior Inspector of Police and Anr. ... Respondents

***ALONGWITH
APPEAL NO.542 OF 2004***

Noor Mohammed Abdul Gafoor ... Appellant

Versus

The State of Maharashtra ... Respondent

***ALONGWITH
INTERIM APPLICATION NO.4720 OF 2023
IN
APPEAL NO.542 OF 2004***

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Noor Mohammed Abdul Gafoor ... Applicant/Appellant

Versus

The State of Maharashtra ... Respondent

***ALONGWITH
APPEAL NO.654 OF 2004***

Kasim Mohammed Abdul Kadar ... Appellant

Versus

The State of Maharashtra ... Respondent

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Mr.Abdul Kader Milwala, Advocate for the Applicant.

Mrs.P.P. Shinde, APP for Respondent – State.

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

DATE : 11th JANUARY 2024

P.C. :

By this Application, the Applicant seeks modification/
deletion of Clause (ii) in paragraph 4 of the order dated
22 October 2010. The condition of which modification/deletion
is sought reads 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.”

2 Perused the Application. It appears that the applicant was convicted by Judgment and order dated 13 January 2004, by the Learned Additional Sessions Judge, Greater Mumbai, in Sessions Case No.1195 of 1992, for the offences punishable under Section 302 read with 34 of Indian Penal Code (IPC) and was sentenced to suffer imprisonment for life. Against the said Judgment and order of conviction and sentence, the applicant has preferred the aforesaid Appeal. Along-with the Appeal, the applicant had filed an Application, being Criminal Application No.940 of 2010, praying therein for suspension of his sentence and enlargement on bail, pending the hearing and final disposal of the aforesaid Appeal.

3 This Court (Coram : A.M. Khanwilkar and P.D. Kode, JJ.) *vide* the order dated 22 October 2010, suspended the sentence and enlarged the Applicant on bail on certain terms and

conditions. The terms and conditions stipulated in paragraph 4 of the said order 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 Mira Road Area 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.”

4 The condition of which modification/deletion is

sought is Clause (ii), as stated above. Learned counsel for the applicant states that post his release on bail, the applicant has not entered Mumbai district, and, was residing at his native place at Jalgaon, at the address mentioned in the cause title of the Application. He further submits that the applicant has also been regularly attending the concerned local police station, as directed. To the said Application, is annexed/marked the police station attendance diary of the recent dates. According to the learned counsel for the applicant before the said condition was imposed, the applicant was residing with his family at Baniya Chawl No.28, Room No.10/2, Dadabhai Cross Road No.1, Andheri (West), Mumbai 400 058.

5 It is submitted that the applicant has a wife and three children, who are living in Mumbai. It is also submitted that the applicant is suffering from several ailments, and, as such, he wants to stay with his family and see the Doctors in Mumbai, for his ailments. Accepting the statement of the learned counsel for the applicant that post the grant of bail to him, he has not

committed any offence, we allow the Application, and, as such delete the condition imposed by this Court *vide* order dated 22 October 2010 i.e. Clause No.ii.

6 Accordingly the applicant is permitted to enter Mumbai city. The applicant shall now report to the nearest police station where he intends to reside, once in a month i.e. first Saturday of every month between 10:30 a.m. to 12:30 p.m. If the date coincides with the Court date, the applicant shall attend the concerned Police Station on the following Saturday.

7 Accordingly, the Application is allowed in the aforesaid terms and is disposed of.

8 All concerned to act on the authenticated copy of this order.

MANJUSHA DESHPANDE, J.

REVATI MOHITE DERE, J.