

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1650 OF 2024
IN
CRIMINAL CRIMINAL APPLICATION NO. 1030 OF 2016
IN
CRIMINAL APPEAL NO.563 OF 2016

1. Mushtaque Ahmed Mohamed	]	
Ishak	]	
	]	
2. Javed Ahmed Abdul Majeed Ansari	]	Applicants
Vs.		
The State of Maharashtra	]	Respondent

.....
Mr. Matin Shaikh a/w Muskan Shiakh, and Farzana Sawant i/b
Mr.Sharif Shiakh, for Applicants.

Mr. V. N. Sagare,A.P.P, for Respondent-State.

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CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, J.J.

DATE : 2nd September, 2024.

P.C:

By this application, the applicants seek modification and cancellation of condition No.(iii) of the order dated 7th October, 2016, passed by this Court in Criminal Application No. 1030 of 2016 filed in the aforesaid Appeal i.e. Criminal Appeal No. 563 of 2016.

2 Perused the application. It appears that the applicant No.1- Mushtaque was convicted for the offences punishable under Section 25(1AA) of the Arms Act and Section 5(b) of the Explosive Substance Act and was sentenced to suffer rigorous imprisonment for 8 years and pay to pay fine of Rs.20,000/-, in default, to undergo simple imprisonment for one year. As far as other offences are concerned i.e. 10, 13, 16, 18, 20, 23, 38, 39 under the UAP Act; Section 120B of the IPC; Sections 3(2), 3(1)(ii) and 3(4) of the MCOCA; and Section 27 of the Arms Act, the applicant No.1 was acquitted of the said offences.

3 It appears that applicant No.2- Javed was convicted for the offence punishable under Section 6 of the Explosive Substance Act and was sentenced to suffer rigorous imprisonment for 8 years and pay to pay fine of Rs.20,000/-, in default, undergo simple imprisonment for one year. As far as offences under the UAP Act, the IPC, the Arms Act, the Explosive Substance Act and under 9(B) (a)(b) of the Explosives Act and Sections 3(2), 3(1)(ii) and 3 (4) of MCOCA, the applicant No.2 was acquitted of the said offences.

4 The applicants' Appeal was admitted by this Court vide order

dated 30th August, 2016 and the applicants' sentences came to be suspended and the applicants were enlarged on bail vide order dated 7th October, 2016 on the following terms and conditions.

“i) Application is allowed.

ii) Applicants shall be released on bail on their executing fresh P.R.Bonds in the sum of Rs.50,000/- and shall be allowed to continue the earlier sureties.

iii) While on bail, applicants shall mark their presence with ATS Mumbai, once in 3 months, on the first day of such month, and shall also mark their presence with Malegaon City Police Station, on the 15th day of each month, pending appeal.

iv) Applicants shall submit proof of their residence to the investigating Officer and update change in address, if any, in future, to the concerned police station.”

5 The applicants seek modification of the condition No. (iii) of the order dated 7th October, 2016. The applicants have annexed to the application their attendance-sheet both, of the ATS as well as Malegaon City Police Station, Nashik, as directed by this Court vide order dated 7th October, 2016. Thus, it appears that the applicants have been attending ATS and the police station for more than 8 years.

6 Considering the aforesaid, condition No.(iii) of the order dated 7th October, 2016, stands modified as under;

- (i) The applicants shall mark their presence with ATS, Mumbai, once in six months, on the first day of such month.
- (ii) As far as attendance to the Malegaon City Police Station is concerned, the same stands cancelled.

7 Rest of the conditions to remain as it is.

8 Application is allowed and disposed of.

9 All parties to act on the authenticated copy of this order.

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]