

Shailaja

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

**INTERIM APPLICATION NO.1755 OF 2024
IN
CRIMINAL APPEAL NO.362 OF 2016**

Sandeep Bhanudas Kotkar	]	Applicant
Vs.		
The State of Maharashtra	]	Respondent

a/w

**CRIMINAL APPLICATION NO.839 OF 2016
IN
CRIMINAL APPEAL NO.362 OF 2016**

Shankarrao Vithalrao Raut	]	Applicant
----------------------------------	---	------------------

IN THE MATTER BETWEEN:

Sandeep s/o Bhanudas Kotkar	]	Appellant
Vs.		
The State of Maharashtra	]	Respondent

.....

Mr. Aabad Ponda, Senior Advocate a/w Mr. Hrishikesh Ghorpade, Ms. Tanvi Tapkire and Mr. Anup Patil, for Applicant in Interim Application No;.1755 of 2024.

Ms. P.P. Shinde, A.P.P, for Respondent – State.

Mr. Umeshchandra Yadav Patil i/b Mr. Jitendra Gaikwad and Ms. Ruksar Kazi, for Intervener in Interim Application No.1755 of 2024.

Mr. Jitendra Gaikwad and Ms. Ruksar Kazi, for Applicant in Criminal Application No.839 of 2016.

.....

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

DATE : 18th October, 2024.

P.C:

1. Not on board. Taken on board.
2. The aforesaid application was heard by us on 15th October, 2024 and was adjourned to today i.e on 18th October, 2024. The said fact was not disputed by either of the learned Counsel for the parties. Since inadvertently in the order dated 15th October, 2024, the date was stated as 21st October, 2024, the matter was not listed today and hence, production was sought.
3. We heard Mr. Ponda, learned Senior Counsel appearing for the applicant and Mr. Yadav Patil, learned Counsel appearing for the original complainant.
4. At the outset, learned Counsel for the applicant seeks leave to amend the prayer clause. Leave granted. Amendment to be carried out forthwith, during the course of the day.

5. By this Interim Application, the applicant seeks relaxation of the condition imposed by this Court upon the applicant i.e clause (iii) of para 6 of the order dated 13th January, 2020 passed in Interim Application No.1 of 2020 in the aforesaid appeal. Condition of which modification is sought reads thus;

“ (iii) The applicant shall not enter Ahmednagar District during the pendency and till the decision of appeal. The applicant shall intimate his address, where he resides, to the Kotwali Police Station, Dist. Ahmednagar and also report to the police station of the area where he would reside, on every Monday between 8.00 a.m to 10.00 a.m.”

6. Learned Counsel for the applicant states that the applicant intends to contest the forthcoming Legislative Assembly Elections which are scheduled in November, 2024. Learned Counsel for the applicant submits that as either the applicant or his wife intend to contest the forthcoming Legislative Assembly Elections, the applicant is required to enter Ahmednagar District in connection with the same. The applicant has annexed the schedule of Elections to the application. He submits that the applicant's presence will be

necessary for campaigning in the said election either for himself or for his wife.

7. Learned Counsel for the original complainant vehemently opposed the application. He submits that after 2014, another incident took place in 2018 whilst the applicant was in jail and that the applicant is being prosecuted even in the said case. He submits that in this view of the matter, the applicant ought not to be permitted to enter Ahmednagar District.

8. We have perused the application. This Court (Coram:Ranjit More & Surendra P. Tavade, JJ.) vide order dated 13th January, 2020 passed in Interim Application No.1 of 2020 preferred by the applicant in his appeal suspended the applicant's sentence and enlarged the applicant on bail on certain terms and conditions stipulated in the said order. The said order is at "**Exhibit A**" at page 15 of the application. One of the conditions stipulated in clause (iii) is that the applicant shall not enter Ahmednagar District during the pendency of his appeal and till the decision in his appeal. It appears that subsequently, the applicant's father – co-accused – Bhanudas Kotkar's sentence was also suspended and he too was

enlarged on bail, pending the hearing and final disposal of his appeal. It appears that subsequently other co-accused – Sachin Kotkar's sentence was also suspended and he too was enlarged on bail vide order dated 13th January, 2020. It appears that similar condition of not to enter Ahmednagar District was also imposed on Sachin Kotkar while suspending his sentence and enlarging him on bail. It is not in dispute that subsequently Sachin Kotkar preferred an application for modification of the said condition which was allowed by this Court and as such, Sachin Kotkar was permitted to enter Ahmednagar District on certain terms and conditions stipulated in the order dated 18th February, 2021.

9. It appears that another case was registered against the applicant and others when the applicant was in jail alleging that he alongwith others conspired to kill two persons. We are informed that the applicant's father who also was an accused in the said case has been discharged from the said case and that the applicant's application seeking discharge is pending before the trial Court.

10. Be that as it may, presently, the applicant intends to enter Ahmednagar District only for the purpose of campaigning either for

himself or for his wife who will be contesting the forthcoming legislative Assembly elections. The schedule of elections is as under;

Sr. No.	Poll Events	Single Phase (288 ACs)
1.	Date of Issue of Gazette Notification	22.10.2024 (Tuesday)
2.	Last Date of Making Nominations	29.10.2024 (Tuesday)
3.	Date for Scrutiny of Nominations	30.10.2024 (Wednesday)
4.	Last Date for Withdrawal of Candidatures	04.11.2024 (Monday)
5.	Date of Poll	20.11.2024 (Wednesday)
6.	Date of Counting	23.11.2024 (Saturday)
7.	Date before which election shall be completed	25.11.2024 (Monday)

11. Considering what is stated hereinabove, presently instead of relaxing the condition totally, we deem it appropriate to relax clause (iii) of paragraph 6 of the order dated 13th January, 2020 passed in Interim Application No.1 of 2020 for a specific period i.e from 20th October, 2024 to 1st December, 2024 i.e the applicant is permitted to enter Ahmednagar District during the said period. During the said period, the applicant to report Kotwali Police Station, District Ahmednagar on every Monday any time between 8.00 a.m to 10.00 a.m. Rest of the conditions imposed on the applicant vide order

dated 13th January, 2020 passed in Interim Application No. 1 of 2020 to remain as it is.

12. On 15th October, 2024, we had made certain observations against the complainants in both the cases viz: Pramod A. Thube and Shankarrao V. Raut for having sent a letter dated 24th October, 2024 to this Court with a copy to the Chief Justice of India and for giving a press note. Both the complainants tendered their unconditional apology and sought time to file their affidavits. Since the date mentioned in the order dated 15th October, 2024 was 21st October, 2024 and not today, the original affidavits are with the complainants. Hence, the affidavits of the complainants will be taken on record on the next date i.e. on 2nd December, 2024.

13. Stand over to **2nd December, 2024.**

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

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]