



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION NO.376 OF 2024
IN
CRIMINAL APPLICATION (BA) NO.778 OF 2021
(Pavan s/o Nandkishor Sedani Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.S. Tiwari, Advocate for the applicant.
Mr. Autkar, APP for the State.
Mr. A. Motlog, Advocate h/f Mr. V. Bhise, Advocate for Assist to Prosecution.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 4, 2024.

By preferring this application, the applicant is seeking relaxation of condition of bail granted by the order dated 21/09/2021.

2. Heard learned Counsel for the applicant. He submitted that the father of the applicant is old aged and there is nobody to look after him and he has also to look after his hardware shop which is in Akot. He further submitted that the entire family of the applicant is finding it difficult to survive in the said circumstances. The condition No.8(ii) imposed by this Court while releasing the applicant on bail that the applicant shall not enter the territorial limits of Akot Tahsil, District Akola till the conclusion of trial be cancelled. He further submitted that the said condition is not imposed on the other accused and they are residing in the Akot.

3. Learned APP strongly opposed the application on the ground that the condition is imposed considering the apprehension raised by the prosecution regarding the tampering of the witnesses. In view of that, the application be rejected.

4. I have heard learned Counsel for both the parties. Perused the order passed by this Court. While assigning the reason, this Court has observed that prosecution is heavily relied upon two circumstances to contend that *prima facie* the chain of the circumstances is complete and refer the circumstances that memorandum recorded under Section 27 of the Indian Evidence Act, 1872 which contains a disclosure that the applicant has hidden the spare magazine of the weapon used and that such place will be shown to the police, at the instance of the present applicant the same was recovered. The another circumstance is extra judicial confession. This Court has also considered the nature and extent of the alleged incriminating material and also considered the apprehension raised by the prosecution. It is observed by this Court that the applicant has adverse antecedents and is an accused in two prosecution under Section 302 of the IPC. The two prosecutions to which a reference is made by the learned APP are Crimes 219/2012 and 218/2012 which emanate from a communal strife. In Crime No.219/2012, the applicant is one of the more than hundred accused and in Crime No.218/2012, the applicant is one of the more than 25 to 30 accused and the

common allegation is that due to a communal strife, members of a particular religious group formed an unlawful assembly and caused death of the victims. This Court further observed that for the purpose of bail, adverse antecedents would be relevant. However, if the material on record in the crime is sought is no sufficient in view of the Court to establish a reasonable prima facie case and bail cannot be denied. Considering the apprehension raised by the prosecution and the criminal antecedents in the nature of crimes registered against the present applicant that two crimes are registered in the nature of the communal strife, the condition is imposed. At this stage, said apprehension is still there as charges are not framed and the evidence of the material witnesses is yet to be recorded. In view of that, I do not find any merits in this application and the application deserves to be rejected.

5. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*