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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.3654 OF 2024

Heena Rashid Pathan,
Age: 33 years, Occ. Teacher,
R/o Village – Umbre, Tal. Rahuri,
Dist. Ahmednagar

....APPLICANT

VERSUS

The State of Maharashtra

....RESPONDENT

.....
Mr Y. B. Pathan, Advocate for Applicant
Mr G. O. Wattamwar, APP for Respondent/State

.....
CORAM : SUSHIL M. GHODESWAR, J.

DATE : 22 SEPTEMBER 2025

ORDER :

1. By this application, the applicant is praying for relaxation of condition imposed upon her in order dated 27/10/2023, passed on Exhibit-1 by learned Special Judge under POCSO Act, Ahmednagar in Criminal Bail Application No.1691/2023, to the extent of clause No.2(iii) of the order, vide which, it was directed that the applicant shall not enter into Taluka Rahuri. She also prays for allowing of application at Exhibit-9 in Special Case No.286/2023, in which, vide order dated 06/05/2024, learned Additional Sessions Judge, Court No.3, Ahmednagar rejected her application for setting aside the condition of bail.

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2. Crime No.822/2023 was registered against the applicant on 28/07/2023 with Rahuri Police Station for offence punishable under Sections 354, 354-D, 109 read with Section 34 of the Indian Penal Code and under Sections 8 and 12 of the Protection of Children From Sexual Offences Act, 2012 (POCSO) and she had filed Criminal Bail Application No.1549/2023 before this Court. This Court had granted her bail vide order dated 20/10/2023. On 27/07/2023, another Crime No.817/2023 came to be registered with Rahuri Police Station for offence punishable under Sections 295, 295-A, 143, 147, 148, 149, 427, 504, 506 of the Indian Penal Code read with Section 7 of Criminal Law (Amendment) Act, 2013 and Sections 37(1), 37(3), 135 of the Mumbai Police Act, 1951 against 25 persons and many other unknown persons. On 27/07/2023, again another Crime No.819/2023 came to be registered against applicant and another accused with Rahuri Police Station for offences punishable under Sections 326, 143, 147, 148, 504, 506 of the Indian Penal Code. According to the applicant, to counter Crime Nos.817/2023, 819/2023, Crime Nos.822/2023 and 823/2023 and 818/2023 have been registered against applicant on account of political pressure.

3. Thereafter, the applicant had filed Criminal Bail Application No.1691/2023 for seeking anticipatory bail in connection

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with Crime No.818/2023. On 27/10/2023, the said application came to be allowed by the Special Judge under POCSO Act, Ahmednagar, thereby imposing certain conditions upon her. As per condition at clause 2(iii) of operative part of the said order, the applicant was prohibited from entering in Taluka Rahuri. Clause 2(iii) of the said order dated 27/10/2023 reads thus:-

“2(iii) The applicant shall not enter into Taluka Rahuri and shall not contact to the prosecutrix or any witnesses directly or indirectly or in any manner, till next order”

4. Being aggrieved by the aforesaid condition at clause No.2(iii), the applicant had approached before the learned Additional Sessions Judge, Ahmednagar vide Special Case No.286/2023 for relaxation of condition at clause 2(iii). By an order dated 06/05/2024, learned Additional Sessions Judge, Ahmednagar rejected her application.

5. Being aggrieved with the order of the learned Additional Sessions Judge, Ahmednagar, dated 06/05/2024, the applicant has approached before this Court with the present application for relaxation of condition at clause 2(iii) of the order dated 27/10/2023.

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6. Heard learned Advocate for the applicant and learned APP appearing for the respondent/State.

7. Learned Advocate for the applicant submits that the applicant is a permanent resident of village Umbre, Tal. Rahuri, Dist. Ahmednagar having small school going kids studying in the said village. The applicant is a teacher in a private school in the said village Umbre. Therefore, it is necessary to relax the condition imposed upon her vide clause 2(iii) and allow her to enter in Rahuri Taluka. He further submits that the investigation in the crime is over. He then submits that if the said condition is relaxed, the applicant shall abide by all the conditions which have been imposed upon her vide order dated 27/10/2023. He, therefore, prays for allowing the present application.

8. Per contra, learned APP appearing for respondent/State strongly opposes the application on the ground that the condition imposed upon the applicant by the learned Sessions Court as regards not entering in Taluka Rahuri is correct and justified as she has committed a very serious and grave crime against minor children. He submits that the victim is also resident of the same village. There are

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other victims apart from present victim of this case in the said village. He further submits that if the applicant is allowed to reside in village, the purpose of imposing condition upon her will be frustrated and there is every possibility of threatening the victim and other prosecution witnesses, due to which, there is possibility of law and order situation in the village. The possibility of tampering of witnesses cannot be ruled out. He, therefore, submits that sympathy may not be shown to the applicant and she may not be permitted to enter in Rahuri Taluka. Thus, he strongly opposes to allow present application in favour of the applicant and prays for rejection of the same.

9. Having heard the submissions made by the learned Advocates for the respective sides and after perusing the documents on record, it is clear that the applicant was not allowed to enter Rahuri Taluka vide order of granting her anticipatory bail, dated 27/10/2023. The another condition imposed by the learned Special Judge, Ahmednagar vide clause No.2(ii) is that the applicant shall not commit any offence similar to offence of which she is accused. The said condition imposed by the learned Special Judge is therefore capable of prohibiting the applicant from committing similar offences in future. According to condition at clause 2(iii) imposed on the applicant, the

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applicant shall not enter into Rahuri Taluka and shall not contact to the prosecutrix and any witnesses in any manner till 'next date'. Thus, the condition is to be obeyed till next date as next date would be decided by Court in future.

10. The applicant is resident of village Umbre, Taluka Rahuri and after imposing condition at clause 2(iii), she is unable to maintain her children, who are staying in the said village and taking education in their respective schools. If she is permitted to enter in Rahuri Taluka, she can look after her children and also her senior relatives. The assurance is given by the learned Advocate for the applicant, upon instructions, that she will abide with all conditions imposed upon her and she will take care of not to indulge in any similar kind of offences in future and shall cooperate with the Investigation Authority. The applicant being lady and mother of two children is unable to maintain her family by staying outside the Taluka for all the period till trial is concluded. Since the investigation in the instant crime is over, there is no harm to the prosecution in allowing the applicant to enter in Rahuri Taluka.

11. In view of the above, in my view, the applicant has made out case for allowing the application. The condition imposed by the

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learned Special Judge, Ahmednagar vide clause 2(iii) of the order dated 27/10/2023 deserves to be set aside. Hence, I pass the following order :-

ORDER

- I) The present criminal application is allowed.
- II) The impugned order dated 27/10/2023, passed by the learned Special Judge, Ahmednagar is hereby modified to the extent of clause 2(iii) of the operative order. The applicant is permitted to enter in Rahuri Taluka.
- III) However, it is made clear that all the other conditions imposed upon the applicant vide the order dated 27/10/2023 shall remain intact and violation of same would entitle prosecution to approach for cancellation of bail.
- IV) Apart from this, if in case the applicant found to be indulged in similar kind of offences in future, the prosecution, as well as victim shall be at liberty to approach this Court for cancellation of her bail.

[SUSHIL M. GHODESWAR, J.]

sjk