

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 480 OF 2024

Captain Mahavir Singh Charan (Retired) & anr. .Applicants

vs.

The State of Maharashtra .Respondent

Mr. Hamza Lakdawala, Advocate, for the Applicant
Ms. Mahalaxmi Ganpathy, APP, for the Respondent – State

CORAM : MILIND N. JADHAV, J.

DATE : 13.01.2025

P. C.

1. Heard Mr. Lakdawala, learned Advocate for the Applicants and Ms. Ganpathy, learned APP for the Respondent – State.
2. The Application is heard by me pursuant to which report dated 09.01.2025 placed before me by Registrar (Judicial-I).
3. The Applicants seek modification of three conditions in the Bail Order dated 08.10.2024 passed by the learned Sessions Court.
4. The learned Sessions Court passed the Order in ABA No. 2007 of 2024. The operative part of which reads as under :-

“ORDER

- 1. Anticipatory Bail Application No. 2007/2024 is allowed.*
- 2. In the event of arrest, the applicant*

No. 1 Capt. Mahavir Singh Charan and applicant No. 2 Garima Charan in C. C. No. 06/SW/2022 registered with Santacruz Police Station, Mumbai for the offence punishable under Sections 498(A), 406, 420, 504 of the Indian Penal Code, be released on bail of furnishing P. R. Bond to the extent of Rs. 30,000/- each with one or two sureties of the like amount.

3. The applicants and their sureties shall provide their respective mobile numbers and email addresses and documents pertaining to place of residence and shall also intimate change in address and mobile no. if any, during the pendency of the matter.

4. The applicants shall not directly or indirectly make any inducement, threat or pressurize any person acquainted with the facts of the present case so as to dissuade them from disclosing such facts to the Court.

5. The applicants shall attend the Santacruz Police Station, Mumbai on every Tuesday and Thursday from 11.00 am to 2.00 pm until further orders.

6. The applicants shall surrender their passports to the investigating officer. If they do not possess passport, they shall file affidavit in that regard.

7. Any breach of condition in the aforesaid order would amount to cancellation of pre-arrest bail forthwith.

8. Applicants shall not leave Mumbai without prior permission of this Court.

9. Anticipatory Bail Application No.

*2007/2024 stands disposed of accordingly”
(emphasis supplied)”*

5. My attention is drawn by Mr. Lakdawala, learned Advocate for the Applicants to condition Nos. 5, 6 & 8 of which modification is sought for in the Application. He would submit that the Applicants are the parents of the Accused No. 1 – husband in an offence punishable under Sections 498A, 406, 420 & 504 of the Indian Penal Code, 1860 (for short ‘IPC’). He would submit that the Applicants are parents of the Accused No. 1 – husband and permanent residents of Jaipur as stated in the cause title. He would submit that condition No. 5 is therefore required to be modified. Next he would draw my attention to condition No. 6 which records that the Applicants shall surrender their passports to the investigating officer. He would submit that the Applicants do possess their passports. The condition to surrender their passports may be dispensed with on the Applicants’ giving an undertaking to this Court and the Trial Court that they shall not travel abroad without the leave and prior permission of the learned Sessions Court. In that view of the matter, there is no necessity that the Applicants’ passports be deposited with the Investigating Officer. Thereafter, he would draw my attention to condition No. 8 which records that the Applicants shall not leave India without prior permission of the learned Sessions Court. He would submit that the

Applicants never resided with Accused No. 1 – husband at any point of time pursuant to the marriage of Accused No. 1 – husband. They are permanent residents of Jaipur having properties at Jaipur. He would submit that Applicant No. 1 is a retired Air Force Officer. Applicant No. 2 is his wife.

6. Ms. Ganpathy, learned APP would submit that in the first instance, the Applicants ought to have moved the learned Sessions Court for seeking modification in the bail Order and hence, the Application is not maintainable. Next she would submit that appropriate directions may be passed for the Applicants to record their presence before the local jurisdictional Jaipur Police Station in Jaipur and appropriate directions may be passed to direct the Applicants to visit the Investigating Officer for the purpose of investigation of the crime. I have noted the objections raised by the learned APP.

7. Considering the facts in the present case and indictment of the Applicants who are parents of the Accused No. 1 – husband against whom the Complainant has filed complaint for the offences punishable under Sections 498A, 406, 420 & 504 of the IPC, I am of the opinion that condition Nos. 5, 6 & 8, *prima facie*, are harsh insofar as the Applicants are concerned. In that view of the matter, I am inclined to modify the said conditions. Insofar as objection regarding

maintainability is concerned, the report made by the Registrar (Judicial – I) states that this Court can hear the Application as this Court has parallel jurisdiction. Hence, I agree and issue of maintainability stands decided.

8. In view of the above, it is stated that condition Nos. 5, 6 & 8 in the Bail Order dated 08.10.2024 shall stand deleted. In place of condition Nos. 5, 6 & 8, the following conditions shall be substituted.

9. **Condition No. 5** – The Applicants are directed to mark their presence before the Karni Vihar Police Station, Chitrakoot, Ajmer Road, Jaipur – 302 021 and mark their presence at the said Police Station on the first day of each month for the next three months and thereafter as and when so directed by the learned Trial Court.

Condition No. 6 – The Applicants shall not leave India or travel abroad without leave and prior permission of the learned Trial Court and they shall file appropriate affidavit and undertaking with respect to the same through their Advocate before the learned Sessions Court within two weeks from today.

Condition No. 8 – The condition stands permanently deleted as it is not required to be substituted in view of the above order.

10. This order shall be read along with order dated 08.10.2024.

11. Further, the Applicants shall be permitted to appear before the

Investigating Officer on V. C. and shall attend the investigation only, if they are specifically called for by the Investigating Officer and directed to remain present before the Investigating Officer physically for which the Investigating Officer shall give appropriate advance notice to the Applicants so that they can arrange for their travel to come to Mumbai.

12. With the above directions, the Application stands disposed.

(MILIND N. JADHAV, J.)