

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.5383 OF 2024

(FOR RELAXATION OF BAIL CONDITION)

IN

CRIMINAL APPEAL NO.363 OF 2016

Bhanudas Eknath Kotkar

.....Applicant

In the Matter in Between:

Bhanudas Eknath Kotkar

.....Appellant

Vs.

The State of Maharashtra & Anr.

.....Respondents

Mr. Aabad Ponda, Senior Advocate a/w Mr. Hrishikesh Ghorpade, Mr. Shailesh Mhaske, Ms. Tanvi Tapkire and Mr. Ashutosh Shukla, for Applicant.

Ms. P. P. Shinde, APP for Respondent No.1-State.

Mr. Jitendra Gaikwad, for Applicant in APPA/2067/2018.

CORAM : REVATI MOHITE DERE &

DR. NEELA GOKHALE, JJ.

Date : 12th MARCH 2025.

P.C.:-

1) By this Interim Application, the Applicant seeks relaxation of the condition (iii) imposed by this Court (*Coram: B.R.Gavai (as he then was) and Smt. Bharati Dangre, JJ.*) vide order dated 26th February 2018

2) The condition of which relaxation is sought, reads thus;

“iii. The Applicant shall not enter the area of Ahmednagar District during the pendency of the Appeal. The Applicant shall intimate his address, where he resides, to the Kotwali Police Station, Dist. Ahmednagar and also report the police station of the area where he would reside, on every Monday between 8 a.m. to 10 a.m.”

3) Perused the Application. It appears that the Applicant - Bhanudas Eknath Kotkar was convicted for the offence punishable under Section 302 read with 34 of the Indian Penal Code ('IPC') alongwith other accused and was sentenced to suffer life imprisonment vide judgment and order dated 11th April 2016 passed by the Additional Sessions Judge, Nashik at Nashik. Against the said judgment and order of conviction and sentence, the Applicant preferred an Appeal before this Court i.e. Criminal Appeal No.363 of 2016. The Applicant in 2017, filed an application, being Criminal Application No. 731 of 2017 in the said Appeal, seeking suspension of his sentence pending the hearing and final disposal of his Appeal. This Court vide a detailed order dated 26th February 2018 allowed the said Application on merits and suspended the Applicant's sentence and enlarged him on bail. The said order is at Exhibit A to the Application.

While suspending the sentence and enlarging him on bail, this Court not only considered the Application on merits but also observed that the Applicant had spent 5 and half years in custody. This Court in paragraph 21 also observed as under:

“21. Taking into consideration that the appellant is suffering from malignancy and that he is operated with radiation and earlier in Cri. Misc. Application No. 1688 of 2017, we had granted him temporary bail on the medical ground and in that view of the matter, the present application of the applicant deserves to be allowed. However, while doing so, stringent conditions will have to be imposed on the applicant.”

4) Learned Senior Counsel for the Applicant states that the Applicant seeks relaxation of the condition, having regard to the Applicant's medical condition. To the Application, the Applicant's medical certificates have been annexed. It appears that the Applicant is suffering from oral cancer and is required to take regular treatment for the same. Today, Mr. Ponda, the learned Senior Counsel for the Applicant has tendered a medical certificate dated 11th March 2025 issued by the Galaxy CARE Multispeciality Hospital Private Limited, revealing that the Applicant was admitted on several occasions in the said hospital. The said certificate shows that the Applicant has persistent difficulty in breathing and has cough, which is regulated by

medicines. Learned Senior Counsel for the Applicant has also tendered photographs of the Applicant to show the physical condition in which the Applicant is. Learned Senior Counsel for the Applicant states that the Applicant will be residing at his farmhouse in Ahmednagar. He assures that the Applicant will not address any public gathering.

5) Learned counsel appearing for the Respondent/Complainant does not dispute the medical condition of the Applicant nor does the learned APP dispute the same.

6) Considering the assurance given by learned Senior Counsel for the Applicant on behalf of the Applicant, that the Applicant will not address any public gathering, learned counsel for the Respondent/Complainant and the learned APP do not have any serious objection for relaxation of the condition as sought for by the Applicant.

7) Accordingly, the Interim Application is allowed and clause (iii) of the order dated 26th February 2018 is relaxed and as such, the Applicant is permitted to enter Ahmednagar district during the

pendency of his Criminal Appeal. The Applicant shall furnish his address and contact details to the Kotwali Police Station, Ahmednagar.

8) Needless to state, that the Applicant to abide by the assurance made by the learned counsel for the Applicant that he will not address any public gathering.

9) Application is allowed and disposed off.

10) All parties to act on an authenticated copy of this order.

(DR. NEELA GOKHALE, J.)

(REVATI MOHITE DERE, J.)

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