

punishable under Sections 109, 189(2) (4), 191 (1) (2), (3), 190, 61(2), 351 (3), 352 of Bharatiya Nyaya Sanhita, 2023, Section 4 r/w. Section 25 of the Arms Act and under Section 37(1) r/w. Section 135 of the Maharashtra Police Act, 1959.

4. While releasing the applicant on bail, the learned Sessions Judge considered it appropriate to impose certain conditions, including that, the applicant shall not enter the limits of Police Commissionerate, Thane, till the filing of the charge-sheet and, thereafter, the limits of jurisdiction of Vartaknagar Police Station till the conclusion of the trial.

5. The applicant filed an application for modification of the said condition, as the applicant had been residing, along with his family, within the local limits of Vartaknagar Police Station and the business of the applicant was also run from a premises situated within the limits of Vartaknagar Police Station. The learned Sessions Judge was persuaded to reject the said application.

6. Mr. Desai, the learned Senior Advocate for the applicant, submitted that the condition not to enter the limits of the Vartak Nagar Police till the conclusion of the trial virtually amounts to externment of the applicant from the limits of the Vartaknagar Police Station and

complete displacement of the applicant from his family and surroundings. Attention of the Court was invited to the observations made by the learned Sessions Judge while releasing the applicant on bail with regard to the role of the applicant in the alleged offences.

7. In opposition to this, Mr. Gawai, the learned APP resisted the prayer to modify the condition of not entering the limits of Vartaknagar Police Station and it was submitted that the applicant has antecedents which give rise to a reasonable apprehension that the applicant may tamper with the evidence, threaten the prosecution witnesses, and commit grave offences, if permitted to enter the limits of Vartaknagar Police Station.

8. Mr. Tambe, the learned counsel for the first informant also strongly opposed the modification of the condition. It was submitted that the safety of the first informant and witnesses, would be at grave risk, if the applicant is permitted to enter the limits of Vatakknagar Police Station.

9. I have perused the impugned order and the order passed by the learned Sessions Judge to release the applicant on bail. In the order dated 15th March 2025, whereby the applicant was released on bail,

the learned Sessions Judge has observed that from perusal of the case diary and the statement of the investigating officer, prima facie, the presence of the applicant at the scene of offence where the first informant was allegedly assaulted was not established nor there was material to prima facie demonstrate that the applicant had hatched the conspiracy to commit the offences.

10. In the face of these observations, it would be rather difficult to agree with the view of the learned Sessions Judge that the applicant deserves to be kept out of the family, business and surroundings till the conclusion of the trial, which may take its own time. If on the merits of the matter, a prima facie case was not made out against the applicant, the Sessions Judge ought not to have imposed a stringent condition which entails the consequence of depriving the applicant of his livelihood.

11. In the aforesaid view of the matter, this Court is inclined to modify the condition of not entering Vartaknagar Police Station till the conclusion of the trial. At the same time, to take care of the apprehension on the part of the prosecution and the first informant, the Court considers it appropriate to direct the applicant to mark his presence at Vartaknagar Police Station.

12. Hence, the following order:

O R D E R

- i) The application stands allowed.
- ii) The condition of not entering the limits of Vartaknagar Police till the conclusion of the trial stands cancelled.
- iii) The applicant shall mark his presence at Vartaknagar Police Station on the first Monday of every month between 10.00a.m to 12.00noon for a period of three years or till the conclusion of the trial, whichever is earlier.
- iv) The applicant shall not contact the first informant, any of the prosecution witnesses or any person acquainted with the facts of the case for any purpose whatsoever.

The application stands disposed.

(N.J. JAMADAR, J)