



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3822 OF 2025

IN

CRIMINAL APPEAL NO. 986 OF 2023

MADHUKAR S/O NAMDEO DETHE
VERSUS
STATE OF MAHARASHTRA AND OTHERS

WITH

CRIMINAL APPLICATION NO. 919 OF 2026

IN

CRIMINAL APPLICATION NO. 3851 OF 2023

IN

CRIMINAL APPEAL NO. 986 OF 2023

KRUSHNA VISHWASRAO HIWALE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. Rajendra Deshmukh, Senior Advocate i/by Mr. Ramankumar G. Dodiya, Advocate for the Applicant in Criminal Application No. 3822 of 2025.

Mr. Avinash M. Reddy, Advocate for the Applicants in Criminal Application No. 919 of 2026.

Mr. N. S. Tekale, APP for the Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 18.03.2026

Pronounced on : 23.03.2026

ORDER :

1. Criminal Application No. 3822 of 2025 is for relaxation of condition imposed by this Court by order dated 05.01.2024 in

Criminal Application No. 3851 of 2023 filed in Criminal Appeal No. 986 of 2023 challenging an order of conviction in Sessions Case No. 68 of 2020 passed by learned Additional Sessions Judge, Jalna for offence under Sections 307, 341 r/w 34 of IPC.

Whereas Criminal Application No. 919 of 2026 is filed by the injured witnesses for cancellation of bail granted to the accused Madhukar vide the above order dated 05.01.2024 passed in Criminal Application No. 3851 of 2023 on the ground of breach of conditions of bail.

2. Learned senior counsel Mr. Deshmukh would submit that, aggrieved by the judgment an order of conviction in Sessions Case No. 68 of 2020, along with the Appeal, Criminal Application No. 3851 of 2023 was pressed into service for suspension of sentence and grant of bail during pendency of appeal. He next submitted that, after hearing applicant as well as prosecution and on going through the record, this court had allowed the said application by order dated 05.01.2024 imposing several conditions, including condition not to enter the vicinity of village Ambegaon, Taluka Jafrabad without prior permission of this Court.

3. Learned senior counsel emphasized that subsequently, applicant had applied for relaxation of condition to enable him to cast vote during parliamentary elections and even this Court, after hearing both sides, was pleased to pass order on 06.05.2024 allowing the said application and permitting applicant to enter the village Ambegaon on 13.05.2024 to cast vote. He submitted that, since then, and even prior to it, applicant had never flouted any of the conditions and has rather abided the conditions scrupulously. However, being politically motivated complaint, attempts are made by complainant party to see that said benefit of bail is got withdrawn and false non-cognizable cases are filed. Learned senior counsel pointed out that, photograph of the applicant is tried to be projected showing his entry in the village, but said photograph carried the date of it being snapped and it was apparently on 13.05.2024 i.e. on the day of casting vote when applicant, after seeking permission of this Court by virtue of order dated 06.05.2024, had entered the village.

4. Learned senior counsel moreover pointed out that thereafter, even there was compromise and settlement. This court was also duly informed about said settlement and it is noted so in one of the orders of this Court passed on 19.12.2024 in Writ Petition No. 6016 of 2021. Thus, he submits that, almost more than two years have lapsed. That,

applicant is required to stay away from his family. He has children and has to shoulder their responsibilities. That, there are no prospects of hearing the appeal immediately and therefore, it is his submission that, keeping applicant away from his abode and native would impart injustice to him, more particularly when he has not breached or flouted any of the conditions imposed by this Court and there being no adverse remarks against him. For above reasons he prays for relaxing condition imposed by this Court vide clause (V) of the operative part of the order dated 05.01.2024 in Criminal Application No. 3851 of 2023.

5. Both, learned APP as well as original complainant have resisted the above prayers. Learned counsel for complainant has pointed out that, rather he has moved application for cancellation of bail as there is breach of condition imposed by this Court and applicant is regularly entering the village and moreover indulging in issuing threats to the complainant and witnesses of which Non Cognizable complaints are being filed with police. Consequently, he prays for cancellation of bail rather than relaxing condition.

6. Considering above submissions. Perused the record. It seems that in Criminal Appeal No. 986 of 2023, which is an off-shoot of

judgment and order of conviction passed in Sessions Case No. 68 of 2020 whereby present applicant stood convicted for commission of offence under Sections 307, 341 r/w 34 of IPC along with other accused, admittedly is still pending hearing. Record shows that after filing appeal, Criminal Application No. 3851 of 2023 for suspension of sentence and grant of bail was pressed into service and by order dated 05.01.2024, after hearing prosecution as well as on going through the record, this Court allowed the application suspending the sentence. Record shows that, meanwhile for relaxing condition for a day i.e. on 13.05.2024 on account of Parliamentary elections and to enable applicant to cast vote, Criminal Application No. 1850 of 2024 was preferred and it was allowed by this Court by order dated 06.05.2024. Since then there is no adverse remark about breach of any condition imposed by this Court by its order dated 05.01.2024.

7. Further, another application for cancellation of bail is not by State but is by complainant. Learned counsel for complainant therein pointed out that there is breach of condition and applicant is entering the village and moreover issuing threats, of which NCs are filed. Photograph of applicant in the village is also placed on record but apparently, as pointed out by learned senior counsel, the photograph seems to be of 13.05.2024 i.e. the day of exercising adult franchise

i.e. casting vote in Parliamentary election during the day on which this Court had relaxed the condition.

8. Therefore, taking above material into consideration and as almost two years have lapsed since applicant-accused is kept out of the village and there being no adverse remark from prosecution side for flouting conditions, said condition is required to be relaxed on an undertaking that applicant shall not indulge in any act of tampering or issuing threats to complainant party. Hence, following order is passed :

ORDER

- I. Criminal Application No. 3822 of 2025 is allowed in terms of prayer clause (B), subject to filing of an undertaking by the applicant Madhukar s/o Namdeo Dethe that he shall not indulge in any act of tampering prosecution evidence or issuing threats to complainant party.
- II Criminal Application No. 919 of 2026 is dismissed.
- III. Both applications are accordingly disposed off.

[ABHAY S. WAGHWASE, J.]