
(2012) 03 BOM CK 0272

In the Bombay High Court

Case No : Criminal Application No. 1354 OF 2012

Ratan Khatrya Padavi

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 20-03-2012

Acts Referred:

Citation : (2012) BomCR(Cri) 756

Hon'ble Judges : A.H. Joshi, J

Bench : Single Bench

Advocate : S.P. Brahme, for the Appellant; R.P. Phatke, Assistant Public Prosecutor, for the Respondent

Judgement

A.H. Joshi, J.—Heard. The applicant is seeking relaxation in the conditions.

2. At the time of grant of bail, this court had imposed following conditions :-

After released on bail, applicant is prohibited to enter in village Surwani, village Bhadgaon and village Dhadgaon till the disposal of Sessions Case against applicant.

[quoted from para 3 of order passed by this court on 1.4.2010 in Criminal Appln. No. 1060 of 2010]

3. The relaxation is sought in the background that applicant wants to contest by-election to the Zilla Parishad. The nomination is scheduled between 26th March, 2012 to 30th March, 2012 including scrutiny, etc. The applicant wants to enter village Dhadgaon for enabling him to furnish his nomination and remain present at the time of scrutiny.

4. In order to understand the circumstances in which this court granted bail on conditions, it was necessary to peruse bail application in which the bail was granted.

5. It is seen on perusal of application as well as the order granting bail, does not

speak in explicit words, however, it has to be inferred from totality that the court (Coram : A.V.Potdar, J.) was satisfied that :-

(i) The applicant has political background. This was evident from contents of para no.6 of bail application. He is politically well connected and is an influential person.

(ii) He was in touch with other accused who had conspired on respective cell 3 crap1354.12 phones.

(iii) The presence of the applicant in the villages/towns mentioned in the order in para 3, is bound to influence the fairness and effectiveness of conduct of trial though case is based solely on circumstantial evidence.

6. At this stage, though conclusion of guilt is not to be drawn against the applicant and his innocence is to be presumed, yet the presence of applicant in the villages concerned is recognized by this court to be a matter of threat to the fair progress of trial of case, and therefore this court had imposed the conditions.

7. Relaxation of condition, by accepting the request within such a short span would mean reviewing the judicial discretion exercised by this court in imposing the conditions. Such review would be last ever choice to elect.

8. In this background, this court is satisfied that the democratic right of the applicant to contest the election would not out-weigh the criminal background. Political rights do not entitle the applicant for the concession which is sought for in supersession of a judicial dictum rendered after considering the merits and the representations as may have been made while praying for bail.

9. Restrictions on liberties which applicant is facing is either due to misdeeds of the applicant, due to ill luck or due to act of State. In either eventuality, applicant has to undergo and endure whatever that has fallen to his share. Therefore ,this Application is rejected.