

ORDER BELOW EXH.50 IN SESSIONS CASE NO. 63/2023
CNR : MHST01-001539-2023

(State of Maharashtra Vs. Umesh Bhalerao Bhoite etc.)

By way of this application, applicant/accused no.3 Umesh Bhalerao Bhoite, who is one of the accused in C.R.No. 160/2023 registered with Wathar Police Station for the offence punishable u/ss. 302, 341, 120(B), 504 & 506 r/w. 34 of Indian Penal Code with Sec. 3/25 of Arms Act, 1959, seeking relaxation of a condition subject to which he was granted bail by the Additional Sessions Judge, Satara by order dated 28/08/2023 (Criminal Bail Appln. No. 548/2023), whereby his entry into Satara District during the pendency of trial except on the date of hearing in the case has been prevented.

02. Learned Advocate Mr.P.S.Bhoite for the applicant/accused has submitted that the applicant is having only one daughter, who is taking education at Krishna Institute of Pharmacy at Karad. She resides at Karad. As the applicant's entry has been prevented into Satara District, he could not meet his daughter. He is unable to take care of her. Due to which, his daughter is having too many difficulties. Absence of the applicant has causing effect on education and career of his daughter. It is further argued that grandmother of the applicant is aged about 92 years. She continuously used to be ill. Since last 8 months, the applicant could not meet his grandmother. Considering the age and illness of grandmother, it is very essential for the applicant to visit her in Satara District. Ld. Advocate Mr.Bhoite has further argued that the applicant is a

member of Grampanchayat, Wagholi, Tal.Koregaon, Dist.Satara since December 2022. He is also the Head of Grampanchayat Panel. After released on bail, he attended monthly meetings of Grampanchayat in the month of September, October, November and December 2023 with permission of the Court. But as entry of applicant has prevented in Satara District despite he is elected member, he could not able to work for Grampanchayat. He has further submitted that applicant/accused is ready to abide any terms and conditions. The accused is having good defence and according to him, he has been falsely roped into the crime. Till date, he has not interfered with the prosecution evidence in any way. For all these reasons, the applicant is seeking for relaxation of condition about his prevented entry into Satara District.

03. In support of this application, the applicant has filed various documents vide list (Exh.51), which includes Election Commission Certificate, Voting Card of grandmother, admission documents of daughter, letter correspondence from daughter's College for parent's meeting and Adhar Card of father.

04. On the other hand, Ld. APP filed his reply at Exh.56 and opposed the application. He submitted that it would be dangerous to the life of the witnesses and the applicant himself, if he enters into Satara District. He submitted that grounds mentioned in the application are not genuine and legal. If the condition is relaxed, then applicant will enter into village Wagholi, where relatives of the deceased as well as witnesses reside. So also, possibility of apprehension of life of the relatives

of the deceased could not be ruled out. Further, possibility of occurrence of cognizable offence cannot be ruled out. He submitted that offence with which the applicant is involved is very serious in nature vide Sec. 302, 120(B) of IPC and u/s. 3/25 of Arms Act. The applicant will definitely make any inducement, promise or threat to the victim and witnesses so as to dissuade them from disclosing the fact before the Court. Therefore, submitted that there is no sufficient reason to relax the condition.

05. In this regard, I have heard Ld. Advocate for the applicant/accused P.S.Bhoite and Ld.APP. I have carefully gone through the documents and considered the rival submissions. It is a matter of record that applicant was granted bail by Sessions Court, Satara on 28/08/2023 with condition that he shall not enter into Satara District till conclusion of trial.

06. Though it is not a matter for consideration in this application, I feel it proper to have some light on the allegations. In so far as alleged incident is concerned, FIR discloses that on 17/04/2023 at about 07.07 p.m., when the informant Mohan Shankar Bhoite was at his home, his nephew Sai Sunil Bhoite called on his phone and informed that his brother-in-laws accused nos.1 and 2 had obstructed their motorcycle by car and on instigation of accused no.2, accused no.1 shoot his father Sunil Shankar Bhoite by pistol, due to which he got injured and fell down on the road. Sherkhan Pathan and Phardin Pathan from their village took the injured to the Government Hospital at Pimpode Bk. On receipt of this

information, informant Mohan rushed to the Hospital alongwith his wife. There he came to know that Sunil Shankar Bhoite died due to injuries sustained to his chest and stomach by bullets shot by pistol.

07. It appears that there is old enmity between them and family of accused No.4 on account of the ownership of land. Civil dispute is also pending in that respect. There were disputes between the parties frequently on that count and accused nos. 1, 2 & 4 used to threaten them and destroy crops in the disputed land. The accused persons had threatened to kill the deceased Sunil from time to time on account of the dispute of land. Out of the said dispute, accused nos.1 and 2 have committed murder of deceased Sunil Shankar Bhoite on the say of accused nos.3 & 4.

08. No doubt, applicant/accused has enlarged on bail on 28/08/2023. Till date, there is no complaint of interference with prosecution evidence. But if learned Predecessor has imposed condition and prevented him from entering into Satara District, must be with certain intention. From the police papers, it appears that there is a dispute on a land between the deceased and the accused. Many times, accused alleged to have threatened the deceased to kill him. Further, it has alleged that on account of the threaten to kill, accused nos.1 and 2 killed the deceased by pistol. It is pertinent to note that the informant and other witnesses reside in Wagholi and nearby areas in Satara District. The charge-sheet has filed but trial is yet to begin. If the applicant/accused is allowed to enter into Satara District,

then his interaction with the witnesses or the informant might crop any cognizable offence. Therefore, reasons shown by the applicant are not sufficient enough to relax the condition imposed, in the interest of fair trial. Therefore, I am not inclined to relax the condition imposed on the applicant regarding restriction on his entry into Satara District. Hence, I pass following order.

ORDER

Application (Exh.50) stands rejected.

Place : Satara
Date : 24.01.2024

(D.L.Nikam)
Addl. Sessions Judge,
Satara.