

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.6127 OF 2014
IN
CRIMINAL APPLICATION NO. 6129 OF 2014**

The State of Maharashtra

...Applicant

versus

1. Imran s/o Jahangir Shaikh,
Age: 31 years, Occ: Business,
R/o. Gulshan Bungalow, Burudgaon
Road, Ahmednagar, Dist.Ahmednagar.

2. Jahangir s/o Channubhai Shaikh,
Age: 52 years, Occ: Business,
R/o. Gulshan Bungalow, Burudgaon
Road, Ahmednagar.

...Respondents

.....
Mr. S.Y. Mahajan, A.P.P. for applicant
Mr. M.A. Jahagirdar, Advocate for respondent Nos. 1 & 2

.....

CORAM : N.W. SAMBRE, J.

DATE : 8th FEBRUARY, 2016

ORAL ORDER :

This application is for cancellation of bail of respondent Nos. 1 and 2, which was granted by learned Additional Sessions Judge, Ahmednagar in Crime No. I-240 of 2014 registered with Tofkhana Police Station, Ahmednagar, for the offence punishable under Sections 324, 392, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code, Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Sections 3/35 and

4/25 of the Arms Act and Section 7(i)(D) of the Protection of Civil Rights Act.

2. Learned Sessions Court in Criminal Misc. Application Nos. 909 of 2014 and 960 of 2014 granted pre-arrest bail to the accused persons by order dated 06/09/2014.

3. Learned A.P.P. while seeking cancellation of bail would urge that there are compelling circumstances, which prompts the cancellation of bail, as bail was granted by the Sessions Court by making incorrect observations. So as to substantiate his contention, he has relied upon the injury certificate which speaks of grievous injury on chick of the complainant, which was incised wound 2cm. x 0.5 cm. He would then urge that F.I.R. speaks of serious offence and in view of the fact that offence is punishable with imprisonment for more than seven years, bail be cancelled.

4. Mr. Jahagirdar, learned Counsel for the respondents would urge that apart from the fact as regards pendency of various crimes against the complainant, respondents are falsely implicated in view of political rivalry, as son of respondent No. 2 is Corporator. He would then urge that the differences have arisen out of payment of restaurant bill and said amount is already paid during pendency of

present application, without prejudice. According to him, custodial interrogation of the respondents is not necessary in the matter, as allegation of use of fire arm is in fact incorrect, though respondents hold licence for the same.

5. In my opinion, once learned Sessions Court has granted pre-arrest bail in the matter, unless it is brought to the notice of the Court that liberty was misused or there are further threats to the complainant and there are such compelling circumstances, which prompts cancellation of bail, this Court should be slow in going on to cancel the bail in the matter.

6. Learned Counsel for the respondents has rightly invited attention of this Court to the judgment of the Apex Court in the matter of ***Hazari Lal Das vs State of West Bengal and another*** reported in ***(2009) 10 SCC 652*** wherein the Apex Court in paragraphs-9 and 10 has observed thus :

“9. In *Dolat Ram And Ors. vs. State of Haryana*, (1995) 1 SCC 349, this Court held:

4. Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are

necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non-bailable case in the first instance and the cancellation of bail already granted.

10. There is nothing on record that there has been interference or attempt to interfere with the due course of administration of justice by the appellant. It also does not appear from the record that concession granted to him has been abused in any manner. No supervening circumstances have surfaced nor shown justifying cancellation of anticipatory bail. The judicial discretion exercised by the Sessions Judge in granting the

anticipatory bail has been interfered with by the High Court in the absence of cogent and convincing circumstances. We are, thus, satisfied that the impugned order cannot be sustained.”

7. As such, in my opinion, no compelling circumstances are brought to the notice of this Court, which prompts cancellation of bail. As such, the application fails, stands rejected.

[N.W. SAMBRE, J.]