

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPLN) 76 OF 2017

(Mohd. Ejaz @ Ajju s/o. Mohd. Ayyub ..vs.. The State, thr PSO, PS Ramdaspath Dist.
Akola & others)

and

CRIMINAL APPLICATION (APPLN) 77 OF 2017

(Mohd. Ejaz @ Ajju s/o. Mohd. Ayyub ..vs.. The State, thr PSO, PS Ramdaspath Dist.
Akola & others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri A.R. Prasad, counsel for applicant.
Shri N.B. Jawade, APP for non-applicant 1.

CORAM: ROHIT B. DEO, J.

DATE: 28th June, 2018.

Heard.

2 The applicant is seeking cancellation of anticipatory bail granted by the learned Sessions Judge to non-applicants 2 and 3 on 13.6.2017 in Crime 100 of 2012 registered at Police Station, Rajapeth, District Akola for offences punishable under section 143, 144, 147, 148, 149, 451, 392, 307, 302, 120-B of the Indian Penal Code, section 7 of Criminal Law Amendment, section 4 and 25 of the Arms Act and section 33 of the Bombay Money Lenders Act.

3 In all twelve persons were implicated in the crime. Since non-applicants 2 and 3 in Criminal Application 76 of 2017 and non-applicants 2 and 3 in Criminal Application 77 of 2017 were not available to face the trial, their trial was separated and six out of eight accused faced trial and were convicted by the Sessions Court. Two were

juvenile. The conviction of the six accused is set aside by this Court and a statement is made at the bar by Shri A.R. Prasad that special leave is granted by the Hon'ble Apex Court. The non-applicants whose anticipatory bail is sought to be cancelled are facing trial and the stage is framing of charge.

4 Be that as it may, there is absolutely no ground made out for cancellation of anticipatory bail which is granted on 13.6.2017. The learned counsel Shri Prasad made an endeavor to satisfy this Court that on merits anticipatory bail ought not to have been granted. I am not inclined to agree. Nothing is demonstrated to suggest that the learned Sessions Judge has exercised the discretion perversely. It is well settled that cancellation of bail already granted can not be compared with rejection of bail at the initial stage. Cancellation of anticipatory bail granted by the Sessions Court is a serious encroachment on the right to liberty and unless compelling reasons or super vening circumstances are cogently established, this Court would be slow to cancel anticipatory bail granted by the Sessions Court.

5 The applications incorporates a vague averment that alongwith main accused the non-applicants 2 and 3 threatened the applicant with dire consequences. No details are given. The complaint which is lodged, and which the police have not investigated treating the same as non-

cognizable, is apparently only against the prime accused one Mohd. Munaf and not applicants 2 and 3 in these applications. Anticipatory bail or regular bail which is granted by the Court can not be cancelled on such vague and unsubstantiated allegations. At any rate, non-cognizable report to which a reference is made in the application is not against non-applicants 2 and 3 in these applications.

6 I do not see any substance in these applications for cancellation of bail and the same are rejected.

JUDGE

RSB