

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 492 OF 2019

Sudam Nanasaheb Bhandwalkar,
Age : 34 years, Occu. Nil,
R/o Takali-Ambad, Tq. Paithan,
Dist. Aurangabad. ...Petitioner

Versus

The State of Maharashtra
Through Investigation Officer,
Cidco Police Station, Aurangabad. ...Respondent

.....
Mr. N. B. Narwade, Advocate for Petitioner.
Mr. A. A. Jagatkar, A.P.P. for Respondent.
.....

CORAM : V.M. DESHPANDE, J.

DATE : 26TH MARCH, 2019

ORAL JUDGMENT :

01. Rule. Rule made returnable forthwith. By consent, heard finally.

02. The petitioner is accused in C. R. No. 47 of 2018 registered with Police Station, Cidco, Dist. Aurangabad for the offence punishable under Sections 406, 408 of Indian Penal Code. He was arrested on 3.4.2018. He moved an application for regular bail before the learned Court below and it was registered as Appln. No. 660 of 2018. He was released on bail

by the learned Additional Sessions Judge-8, Aurangbaad on 8.5.2018. While releasing him on bail, the Court below imposed following condition :

(iii) He should attend the concerned Police Station in between 6.00 PM to 7.00 PM on every Thursday and Tuesday from today till filing of the charge-sheet.

03. Since, according to the prosecution, the petitioner did not adhere with the condition imposed upon him, an application under the signature of the Assistant Police Inspector, Police Station, Cidco and District Govt. Pleader under Section 439(2) of Code of Criminal Procedure was filed for cancellation of bail. The said was registered as Misc. Cri. Application No. 235 of 2018. Similarly, the petitioner also moved an application for relaxation of the condition afore mentioned. The said was registered as Misc. Criminal Application No. 140 of 2018. Both the applications were taken up for hearing simultaneously and disposed of by common order dated 14.12.2018 passed by the learned Additional Sessions Judge, Aurangabad, whereby the Court below dismissed the application filed on behalf of the petitioner for relaxation of

condition, however, granted application for cancellation of bail and thereby canceled the bail.

04. Against the said, initially the application under Section 482 of the Cr.P.C. was filed by the petitioner before this Court vide Cri. Application No. 3769 of 2018 and on 8.1.2019 this Court (Coram : K. K. Sonawane, J.) kept in abeyance the order canceling bail. The interim order was continued till 19.3.2019 and on the said day the Cri. Application No. 3769 of 2018 was withdrawn by the petitioner. However, this Court (Coram : K. K. Sonawane, J) continued the interim relief till 26.3.2019 i.e. till today.

05. In the meanwhile, after withdrawing the application under Section 482 of the Cr. P. C., the present writ petition is filed. According to the prosecution, the petitioner did not attend the Police Station. On the contrary, according to the petitioner, the petitioner attended the Police Station on 4.5.2018, 21.5.2018, 5.6.2018 and 12.6.2018. He has also placed on record the photo copy of the diary, which he has maintained duly signed by the concerned Police Inspector. Even, this fact is also not disputed on the part of the

prosecution. According to the prosecution, after 12.6.2018 the petitioner has not attended the Police Station.

06. This particular fact is seriously disputed by the petitioner by submitting that when he approached to the Police Station, he and his wife were manhandled and deliberately the attendance was not marked. The say filed on behalf of the prosecution to oppose the application for relaxation of condition is placed on record. In the said say also the Police Officer has specifically admitted that the petitioner has attended the Police Station, however, from 28.6.2018 he has not attended.

07. It is to be noted here that after the petitioner was arrested on 3.4.2018 he was in Police custody remand till 13.4.2018. On 8.5.2018 he was released on bail. The Order releasing on bail would show that during the Police custody remand nothing was recovered at the behest of the present petitioner.

08. Further, when the petitioner has submitted that he has attended the Police Station and which fact is admitted by the Investigating Officer, there

was no reason for the present petitioner not to attend the Police Station subsequently.

09. The petitioner would submit that even today he is ready to attend the Police Station and on instructions from the Police Station Officer Mr. A.A. Jagatkar, the learned A.P.P. would submit that the petitioner be directed to attend Police Station, Harsul and the Counsel for the petitioner Mr. N. B. Narwade on instructions from the petitioner has submitted that the petitioner would report to the Harsul Police Station on every Thursday and every Tuesday till the culmination of Trial. The petitioner shall attend the Police Station from 11.00 AM to 1.00 PM on every Thursday and Tuesday till the culmination of trial. It leads to me to pass following order;

ORDER

(i)The writ petition is partly allowed.

(ii)The Order passed by learned Additional Sessions Judge, Aurangabad granting the Cri. Application No. 235/2018 filed on behalf of the prosecution for cancellation of bail is hereby set aside,

the petitioner shall be on bail during trial.

(iii) The said application for cancellation of bail is rejected.

(iv) The Order passed by the Additional Sessions Judge, Aurangabad in Cri. Appln No. 140 of 2018 is hereby maintained.

(v) The petitioner is directed to attend the Police Station, Harsul of Aurangabad on every Friday and Tuesday till culmination of trial in between 11.00 AM to 1.00 PM instead of Police Station, Cidco.

(vi) With this, the petition is partly allowed and disposed of. Rule made absolute on above terms.

[V.M. DESHPANDE]

JUDGE

Dahibhate/-