

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

**917 APPLICATION FOR CANCELLATION OF
BAIL NO. 121 OF 2018**

Sitaram s/o Babaji Gole,
Age : 62 years, Occu.: Business,
R/o.: Gole Farm House, Divil Road,
Turbhe Khonda, Tq. Poladpur,
District : Raigad

.... APPLICANT
(Informant)

VERSUS

1. The State of Maharashtra
(Through : Sonpeth Police Station,
District : Parbhani)
2. Appasaheb s/o Mallinath Patil,
Age : 34 years, Occu.: Business,
R/o.: Vandana Apartment, 7-Rasta,
Near Government Rest House,
Vijapur Road, Solapur, Dist. Solapur

.... RESPONDENT
(Resp.No.2 is original
accused No.2)

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Mr. S. J. Salunke, learned counsel for the applicant.
Mr. S. Y. Mahajan, learned Additional Public Prosecutor for
respondent No.1- State.
Mr. S. S. Rathi, learned counsel for respondent No.2.

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CORAM : V. M. DESHPANDE, J.

DATE : 02.04.2019

ORAL JUDGMENT :-

Rule. Rule is made returnable forthwith. By consent of
both the parties, heard finally.

2. Heard Mr. S. J. Salunke, learned counsel for the applicant, Mr. S. Y. Mahajan, learned Additional Public Prosecutor for respondent No.1-State and Mr. S. S. Rathi, learned counsel for respondent No.2.

3. By the present application, the applicant / first informant is praying for cancellation of pre-arrest bail granted in favour of respondent No.2 by the learned Additional Sessions Judge, Gangakhed on 09.08.2018 in Misc. Criminal Application No. 121 of 2018, whereby the Court below has granted pre-arrest bail in his favour in connection with the Crime No. 92 of 2018, registered with Sonpeth Police Station, District Parbhani for the offences punishable under Sections 406, 420, 504 & 506 read with Section 34 of the Indian Penal Code.

4. The First Information Report is dated 08.07.2018. The report is lodged by the applicant Sitaram Babaji Gole against accused Sharanbasappa Sangappa Wale and present respondent No.2. From the First Information Report and after hearing the respective submissions made by the respective

counsel, it is clear that the allegations are mainly against Sharanbasappa Wale, who according to the first informant after obtaining an amount of Rs.1 crore from Kuber Group owned by the applicant to No.2 Shri Sai Industries owned by Sharanbasappa Wale, thereafter, he without obtaining any consent from the first informant, has surrendered the tender allotted to Shri Sai Industries by the Collector for excavation of the sand and thus, according to the First Information Report the said Sharanbasappa has misappropriated the this amount. According to the allegation against the present applicant is that he signed as a witness in respect of the partnership deed executed between the present applicant and accused Sharanbasappa.

5. Except the fact that he signed the document of partnership as a witness, there are no allegations against him that he has misappropriate and or obtained money either from the complainant or from co-accused Sharanbasappa. In that view of the matter, the Court below, in my view, has correctly granted anticipatory bail in favour of present respondent No.2.

During the course of the submission, it is also pointed out to this Court that Sharanbasappa Wale also approached to this Court for grant of pre-arrest bail by filing Anticipatory Bail Application No. 860 of 2018 and this Court (Coram : V. L. Achaliya, J.) on 28.11.2018 has granted anticipatory bail in favour of said Sharanbasappa. It is also made clear by the learned Additional Public Prosecutor that the account of said co-accused Sharanbasappa is already seized and freezed by the Investigating Officer. Through that an amount of Rs.96,13,000/- is already secured. In that view of the matter, in my view no fruitful purpose will be served by cancellaing the pre-arrest bail granted in favour of respondent No.2, specially looking to the nature of the allegations made against him. Hence, the application is dismissed and disposed of accordingly. Rule is discharged.

(V. M. DESHPANDE, J.)

vsm/-