

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

LD-VC (CRIMINAL) SB APPLICATION 323/2020

Virendra S/o Gopichand Khiyani

-VERSUS-

State of Maharashtra

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri R. M. Daga, Advocate for appellant.

Shri N. S. Rao, Additional Public Prosecutor for State.

CORAM : VINAY JOSHI, J.

DATE : JULY 10, 2020.

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard.

3. A very piquant situation arose as the appellant/accused is challenging the order dated 01.06.2020 passed by the Sessions Court in S. T. No. 85/2019 by which the interim bail which was granted by the same Court on 26.05.2020 was cancelled. Initially, the learned Sessions Judge has

granted interim bail on 26.05.2020 in view of directions given by High Power Committee pursuant to the order dated 23.03.2020 passed in SMW (c) No. 1/2020. Later on, Sessions Court suo motu took up the matter and cancelled interim bail granted on premise of COVID-19 situation by placing reliance on the decision of this Court in case of Peoples Union Civil Liberties and another Vs. State of Maharashtra and others in LA-CJ-LD-VC-1/2020 in PIL NO. 15/2018.

4. The applicant has challenged bail cancellation order by invoking inherent jurisdiction of this Court. Prime contention of the learned counsel for the applicant is that Sessions Court erred in altering his own order which is not permissible under Section 362 of the Code of Criminal Procedure. Having regard to the situation, this Court on 23.06.2020, has expressed that though the learned Sessions Judge cannot alter or review his own order, however this Court

3

cannot preclude to invoke the provisions of Section 482 of the Code of Criminal Procedure, meaning thereby, to see merits of the case.

5. In the situation, it would be appropriate for applicant to seek regular/temporary bail before the Bench dealing with the assignment of bail.

6. At this stage, learned counsel for the applicant submitted that this application filed under Section 482 of the Code of Criminal Procedure be treated as bail application and the same be decided on merits.

7. I find that again it would be further confusion if the matter is transposed to bail application. For the purpose of smooth administration and record, it is advisable to file fresh bail application which will be adequately dealt with by concerned bench.

8. In above situation, application stands disposed of. Applicant is permitted to file fresh

bail application for regular or temporary bail as he desires.

9. This order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

Gohane.

**Jitendra
Gohane** Digitally signed
by Jitendra
Gohane
Date:
2020.07.10
16:33:41 +0530