

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

**5. CRIMINAL WRIT PETITION NO. 197 OF 2021**

**DEEPASHRI VINAY BADE  
VERSUS  
THE STATE OF MAHARASHTRA AND ANOTHER**

Advocate for the the petitioner : Mr. A.K. Bhosale  
APP for Respondent No. 1-State : Mrs. G.L.Deshpande

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**CORAM : N.R. BORKAR , J.  
DATE : 11<sup>th</sup> October, 2021.**

**P. C. :**

1. Learned APP for Respondent-State submitted a report signed by the Assistant Police Inspector of Economic Offences Wing. The same is taken on record and marked "X" for the identification. It appears from the report that respondent No. 2 has refused to accept the notice. Hence he is treated as served.

2. This petition takes an exception to the order dated 28.01.2021 passed by the learned Additional Sessions Judge-4, Aurangabad in Criminal M.A. No. 150 of 2020. By the order impugned the learned Sessions Judge cancelled the anticipatory bail granted to the present petitioner on the ground of suppression of pendency of anticipatory bail application before this Court and also imposed the cost of Rs. 2,00,000/-.

3. I have heard the learned Counsel for the petitioner and the learned APP for the respondent-State.

4. Learned Counsel for the petitioner submits that the present petitioner has already been arrested. Therefore, the prayer with regard to quash and set aside the order impugned and restore the order of grant of anticipatory bail in favour of the petitioner does not survive.

5. Initially after registration of crime, an application was filed by the present petitioner before the Sessions Court for anticipatory bail and it was rejected. An application thereafter was filed before this Court for anticipatory bail. According to the petitioner, soon after filing of the applications before this Court, lock down due to Covid-19 Pandemic was declared and thus the application was not heard. It is stated that in the meantime the investigating officer issued the notice to the petitioner under Section 41 of the Code of Criminal Procedure. It is stated that under these circumstances and as one of the co-accused was released on bail, the petitioner filed an application before the Sessions Court and in the said application rejection of earlier bail application was disclosed. It is stated that considering the facts and circumstances the application filed by the petitioner for anticipatory bail was allowed by the Sessions Court. It is stated that after this Court resumed the regular functioning, the petitioner withdrawn the application filed before this Court for anticipatory bail. It is submitted that at the time of

withdrawal of application before this Court, no grievance was made by the original complainant, who then filed an application for cancellation of bail and on the contrary the undertaking given by the petitioner before this Court was continued till conclusion of the trial. It is submitted that the Sessions Court was, thus not justified in imposing the cost of Rs. 2,00,000/-.

6. On the other hand, the learned A.P.P. for respondent-State supported the order of cost.

7. Considering the peculiar facts and circumstances, I am of the view that imposition of cost of Rs. 2,00,000/- was un-warranted. Hence following order :

**ORDER**

1. Writ Petition is partly allowed.
2. Order of imposition of costs of Rs. 2,00,000/- is set aside.

**( N.R. BORKAR )**  
**JUDGE**

mahajansb/