

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

**APPLICATION FOR CANCELLATION OF BAIL NO. 100 OF 2020
IN
BAIL APPLICATION NO. 748 OF 2020**

Sitaram S/o Ashruba Chavan,
Age : 42 years, Occu. Business,
R/o. Laxminagar, Paithan,
Tal. Paithan, Dist. Aurangabad.

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

.....
Mr. Prasad D. Jarare, Advocate for the applicant
Mrs. V. S. Choudhari, APP for respondent / State
Mr. G. J. Pahilwan, Advocate for respondent No. 2
.....

CORAM : V. G. BISHT, J.

DATE OF RESERVING THE ORDER : 23rd September, 2021
DATE OF PRONOUNCING THE ORDER : 27th September, 2021

PER COURT : -

1. The present application is moved by the informant in Crime No. 19 of 2020, for cancellation of bail granted to the respondent No. 2 herein (accused), namely, Ashok Nana Mahapure, on the ground of breach of condition imposed upon him by this Court vide order dated 02nd September, 2020.

2. Heard Mr. Prasad D. Jarare, learned Counsel for the applicant, Mrs. V. S. Choudhari, learned APP for the State and Mr. G. J. Pahilwan, learned Advocate for respondent No. 2.

3. The applicant/informant stated in the application that the respondent no. 2/accused was released on bail in Crime No. 19 of 2020 with a condition that he shall not tamper with the prosecution evidence in any manner. The applicant, however, alleges that the respondent no. 2/accused and his family members assaulted and threatened his son on 06th September, 2020 and thus breached the condition imposed upon him. Accordingly, the applicant (informant) lodged the FIR No. 0277 of 2020 with Paithan Police Station for the offences punishable under Sections 324, 323, 504, 506 r/w 34 of the Indian Penal Code. However, the said allegations are denied by the respondent no. 2/accused herein by filing affidavit. On the contrary, he alleges that he was assaulted by the applicant and his family members and NC to that effect was lodged by him on 07th September, 2020.

4. Learned Counsel for the applicant reiterated the contents of the application and vociferously submitted that since the condition

imposed upon respondent no. 2/accused has been breached by him, the bail granted in his favour needs to be cancelled.

5. Mr. G. J. Pahilwan, learned Advocate for respondent No.2/accused, on the other hand, submits that the charge-sheet has been filed in the matter and in such circumstances, it is only a matter of time when the trial will be over. Therefore, the learned Counsel urged that the application may not be allowed and the respondent no.2/accused be allowed to remain on bail.

6. Learned APP, on the other hand, has supported the submissions of learned Counsel for the applicant.

7. It is apparent from the order of this Court dated 02nd September, 2020 that the respondent no. 2/accused was released on bail on condition that he shall not tamper with the prosecution evidence in any manner. However, it appears from the record that on 06th September, 2020, respondent no. 2/accused along with his family members visited the house of applicant and assaulted the son of informant, namely, Nikhil by means of an iron rod. The other members also assaulted the informant and his family members. It is

further alleged that all of them also threatened the informant in connection with the criminal case filed by the informant i.e. FIR No. 19 of 2020. There are treatment papers pertaining to the son of informant issued by the Government Medical College and Hospital at Aurangabad, which show that the informant's son was treated on 07th September, 2020. It may not be out of place to mention here that the alleged incident took place on 06th September, 2020 at about 10:00 pm. The respondent no. 2/accused herein also filed NC, which is also on record. The said NC was registered on 07th September, 2020 against the applicant herein, his daughter, his son and his mother-in-law i.e. Tarabai Sarode, for the offences u/s 323, 504, 506 r/w 34 of the Indian Penal Code.

8. Reading of the application coupled with the medical papers and FIR filed by the applicant/informant (No. 0277 of 2020), *prima facie*, shows that there was clear breach of condition at the hands of respondent no. 2/accused. He was released on bail on certain condition on 02nd September, 2020 and immediately after some days i.e. on 06th September, 2020, he indulged in criminal intimidation and voluntarily caused hurt by means of dangerous weapon to the son of the applicant.

9. Needless to say, breach of condition tantamounts to tampering with the prosecution evidence. The conduct of the respondent no. 2/accused also signifies that he has no respect for the order of this Court and in utter disregard to this, he ventured to commit breach of condition imposed upon him.

10. For the aforesaid reasons, I am inclined to allow the application. Hence, the following order.

ORDER

- i] The application is allowed.
- ii] Regular bail granted to the respondent no. 2/accused by this Court vide order dated 02nd September, 2020, is hereby cancelled.
- iii] Respondent No. 2 / accused is hereby directed to surrender before the Paithan Police Station, Dist. Aurangabad, immediately, so that he can be committed to prison. If he fails to surrender before the police, the Incharge of the Paithan Police Station shall be at liberty to arrest him and commit him to the prison in connection with Crime No. 19 of 2020.
- iv] After pronouncement of this order, the learned Counsel for respondent No. 2 requests stay of the order for a period of four (04) weeks. Prayer rejected.

[V. G. BISHT]
JUDGE