

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

901 CRIMINAL WRIT PETITION NO.857 OF 2021

1. Farukh s/o Jalaloddin Syed,
Age; 43 years, Occ; Business,
R/o; Lane No. 12-B, Hadapsar,
Pune, Taluka and Dist. Pune.
 2. Farukh Dilawar Maniyar,
Age; 49 years, Occ; Business,
R/o; Kawadewasti Maliwada,
Hadapsar, Taluka Haveli,
District; Pune.
 3. Anwar Shamshuddin Syed,
Age; 40 years, Occ; Business,
R/o; Galli No. 12-B, Hadapwar,
Pune, Taluka and Dist. Pune.
- ...Petitioners

VERSUS

The State of Maharashtra ...Respondent

...
Advocate for Petitioners : Mrs.Daxini Roopa V.
APP for Respondent-State : Mrs. G.L. Deshpande
...

WITH

CRIMINAL APPLICATION NO. 2970 OF 2021

IN

WP/857/2021

MOHAMED AMIN SAYED AND ORS

VERSUS

THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr.Ameya N. Sabnis
APP for Respondent-State : Mrs. G.L. Deshpande
...

CORAM : N.R. BORKAR , J.

DATE : 03rd DECEMBER, 2021.

P. C. :

1. This petition takes an exception to the order dated 18.05.2021 passed by the learned Additional Sessions Judge, Aurangabad in Cr.M.A. No. 89 of 2021.

2. The petitioners who are accused in Cr. No. 90 of 2021 registered at Chawani Police Station for the offences punishable under Sections 406, 420, 467, 468, 471 read with Section 34 of the Indian Penal Code (for short "I.P.C.") had filed an application for anticipatory bail before the Sessions Court. The said application was allowed by order dated 25.03.2021 & the petitioners were directed to attend that police station on every Monday and Thursday in between 2.00 p.m. to 4.00 p.m. for two months or till filing of the charge-sheet, whichever is earlier.

3. The respondent State had, thereafter filed an application for the cancellation of anticipatory bail alleging breach of condition by the petitioners. After hearing the parties, by the order impugned, the anticipatory bail which was granted to the present petitioners came to be cancelled.

4. I have heard the learned counsel for the petitioners and

the learned A.P.P. for respondent-State and the learned counsel for the original-complainant/intervenor.

5. The learned counsel for the petitioners submits that at the relevant time one of the co-accused i.e. Mehaboob Abdul Gaffar Shaikh was tested positive for Covid-19. It is submitted that the petitioners were therefore required to quarantine themselves for 15 days. It is submitted that under above circumstances they failed to attend the police station from 01.04.2021 till 24.04.2021. It is submitted that breach was not intentional and thus the learned Additional Sessions Judge was not justified in canceling the anticipatory bail.

6. On the other hand the learned A.P.P. for respondent-State submits that the learned Sessions Judge in his order has specifically observed that there is nothing on record to show as to why the petitioners have not attended the police station from 01.04.2021 till 24.04.2021. It is submitted that in absence of any justifiable reasons, learned Additional Sessions Judge was justified in cancelling anticipatory bail of the petitioners.

7. The learned counsel for the original complainant/intervenor submits that neither there is perversity nor there is any jurisdictional error in the order impugned and thus, the order

impugned needs no interference in the writ jurisdiction. It is accordingly submitted that the petition be dismissed.

8. This Court on 27.09.2021 recorded the statement of the petitioners that they would attend police station on 05.10.2021, 06.10.2021 and 07.10.2021 and on the basis of said statement this Court directed that accused shall not be arrested.

9. The learned A.P.P., on instructions, submits that though the petitioners have initially not co-operated but now they have provided specimen hand writing and signatures and nothing is to be recovered from them now.

10. Considering the facts and circumstances and reason assigned by the petitioners which prevented them from attending the police station, in my view, it would be appropriate to quash and set aside impugned order. In the result following order is passed :

ORDER

- a. Petition is allowed.
- b. The order impugned is quashed and set aside.
- c. The anticipatory bail granted to the petitioners shall, however, remain in force till filing of the charge-sheet. After filing of charge-sheet, the

petitioners shall file an application for regular bail before the appropriate Court and the said Court shall decide the said bail application on its own merits without being influenced by the order passed by the learned Sessions Court granting anticipatory bail to the petitioners or the order passed by this Court.

d. In view of the disposal of the petition, the Criminal Application No. 2970 of 2021 (intervenor) does not survive and the same is disposed of.

(N.R. BORKAR)
JUDGE

mahajansb/