

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**CRIMINAL APPLICATION NO. 1645 OF 2021
IN
BAIL APPLICATION NO. 538 OF 2020**

Chandrabhan S/o. Ganpat Kayande
Versus
The State of Maharashtra.

...

Mr. D.M. Shinde, Advocate for the applicant
Mr. S.B. Narwade, APP for respondent.

With

APPLICATION FOR CANCELLATION OF BAIL NO. 166 OF 2020

The State of Maharashtra
Versus
Chandrabhan Ganpat Kayande and
Suresh Namdeo Kayande.

...

Mr. S.B. Narwade, Advocate for applicant
Mr. D.S.Ingole h/f. Mr. N.S. Ghanekar, Advocate for respondent Nos. 2
and 3

..

with

APPLICATION FOR CANCELLATION OF BAIL NO. 149 OF 2020

Gajanan Keshavappa Aambatkar
Versus
The State of Maharashtra and others.

...

Mr. R.O. Awasarmol, Advocate for applicant
Mr. S.B. Narwade, APP for respondent No.1
Mr. N.S. Ghanekar, Advocate for respondent Nos. 2 and 3

CORAM : V.G. BISHT, J.

**RESERVED ON : 6th September, 2021.
PRONOUNCED ON : 15th September, 2021.**

PER COURT:

1] Criminal Application No. 1645 of 2021 is moved by the applicant/accused, namely, Chandrakant Ganpat Kayande, for relaxation of condition imposed by this court while granting bail vide order dated 16.7.2020 in Regular Bail Application No. 538 of 2020, whereby the present applicant and others were directed not to enter within the limits of village Sakhara, Taluka Sengaoon, Dist. Hingoli, till conclusion of trial. Whereas, Application for cancellation of bail No. 166 of 2020 is moved by the State for cancellation of bail granted to said applicant/accused and another applicant/accused namely Suresh Namdeo Kayande, on the ground of breach of conditions imposed upon them vide aforesaid order dated 16.7.2021. Similarly, Application for cancellation of bail No. 149 of 2020 is moved by the informant seeking cancellation of bail of both the applicant and another accused, namely, Suresh Kayande on the ground of breach of conditions of bail.

2] Heard learned counsel Mr. D.M. Shinde, appearing for applicants in Criminal Application No.1645/2021 and Mr. S.B. Narwade , learned APP and Mr. D.S. Ingole, h/f. Mr. N.S. Ghanekar, Advocate in Application for cancellation of bail Nos.166 of 2020 and 149 of 2020, respectively.

3] The learned counsel for applicant in Criminal Application No. 1645 of 2021 submits that the applicant is an agriculturist and his entire family survives on the income of agriculture. He has got three children of which two are married and one son is in 10th standard and

taking education in Parbhani. In view of the undertaking given by him and the conditions so imposed upon him, there is nobody to look after the agricultural land which is causing financial hardship and thus, he is unable to support the family. Therefore, the condition imposed upon him should be relaxed.

4] Mr. S.B. Narwade, learned APP and learned counsel for informant in Application for Cancellation of Bail No. 149 of 2021 submits that the present applicant and other accused have breached the conditions of bail order, inasmuch as, on 13.10.2020, in sheer disregard to the conditions imposed upon the accused by this court, not only they entered in village Sakhara, but also assaulted the informant. They invited my attention to the copy of FIR No. 0322 of 2020 (Exhibit B) dated 13.10.2020. In such circumstances, the question of relaxation of conditions does not arise and rather this is a fit case where bail granted to both the accused should be cancelled immediately.

5] I have gone through the papers produced on record. This Court vide order dated 16.7.2020 had granted regular bail to the present applicant accused, namely, Chandrakant Ganpat Kayande and another accused Sunil Namdeo Kayande, with following conditions :-

“ [a] The applicants in both the bail applications shall not tamper with the prosecution evidence, in any manner.

[b] The applicants on both the bail applications shall not enter within the limits of village Sakhara, Tq. Sengaon, District Hingoli, till the conclusion of the trial.”

6] Apparently, it is clear that both the accused were directed not to tamper with the prosecution evidence in any manner. They were

further directed that they shall not enter within the limits of village Sakhara Taluka Sengaon, Dist. Hingoli till conclusion of trial. It is quite disturbing to note from the FIR No. 322 of 2020 dated 13.10.2020 that on 13.10.2020, not only the applicant and another accused, namely, Suresh Namdeo Kayande entered into village Sakhara but they also tried to pressurize the informant in the present case, namely, Gajajan Ambatkar, to take his complaint back and when he refused, both of them assaulted him by means of sticks on his head. They also abused and threatened to kill him.

7] From the above, it is clear that the applicant and other accused both had no respect for the conditions so imposed by this court and in utter disregard to it, they ventured to commit breach of the conditions imposed upon them and went ahead not only to threaten the informant but also assaulted him by means of sticks and thereby caused bleeding injury on his head. The conduct so reflected by accused needs to be deplored and it is an indication of the fact that if they are allowed to remain on bail then they may go to any extent to pressurize not only the informant but other witnesses as well. It does not auger well for prosecution case.

8] For the aforesaid reasons, I am inclined to allow the applications moved by the State and as also informant, for cancellation of bail and at the same time, I do not want to entertain the application for relaxation of conditions moved by the applicants/accused namely Chandrakant and Sunil Kayande.

9] In the above premise, I pass the following order :-

[a] Criminal Application No. 1645 of 2021 stands rejected.

[b] Application for cancellation of bail No.166 of 2020 and Application for cancellation of bail No. 149 of 2020 are allowed. Regular bail granted to both the accused vide order dated 16.7.2020 is hereby cancelled and both of them are directed to surrender to the Police Station Sengaon, District Hingoli, so that they can be committed to prison. If both the accused failed to surrender before the police, the Incharge of Police Station, Sengaon shall be at liberty to arrest them and commit them to prison in connection with Crime No. 46 of 2020.

10] At this stage, learned counsel for the applicants in Criminal Application No. 1645 of 2021 requested that the order of cancellation of bail passed above be stayed for a period of two weeks.

11] Heard both sides. Prayer is rejected.

[V.G. BISHT]
JUDGE.

grt/-