

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION (APPP) NO. 590 OF 2019
IN
CRIMINAL BAIL APPLICATION NO. 1386 OF 2018**

Kantibhai C. Panchal	... Applicant
V/s.	
Mahesh Prabhakar Satpalkar & Anr.	... Respondents

**WITH
CRIMINAL BAIL APPLICATION NO. 1386 OF 2018**

Mahesh Prabhakar Satpalkar	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
INTERIM APPLICATION NO. 1658 OF 2021
IN
CRIMINAL BAIL APPLICATION NO. 1386 OF 2018**

Naresh Kantibhai Panchal & Anr.	... Applicants
V/s.	
The State of Maharashtra & Ors.	... Respondents

Mr. Sanjiv Sawant, Mr. Heramb Kadam i/by Mr. Amit G. Kasbe for the Applicants in IA/1658/2021.
Mr. Sanjay Dubey for Respondent No. 2 in BA/1386/2018 & IA/1658/2021.
Mr. Y. M. Nakhawa, A.P.P. for Respondent-State.

**CORAM : A.S. GADKARI, J.
DATE : 4th September 2021.**

PC. :

1. These are Applications for cancellation of bail granted to the Respondent No.2 by an Order 10th August 2018, in Bail Application No.1386 of 2018, passed by this Court.

Criminal Application No.590 of 2019 is filed by the First Informant and Interim Application No.1658 of 2021 is filed by the sons of First Informant, who are witnesses to the said crime.

2. The Respondent No.2 is an accused in crime No.I-410/17 dated 9th October 2017, registered with Narpoli Police Station, District Thane, under Sections 420, 465, 467, 471 read with 34 of the Indian Penal Code. In the said crime, the Respondent No.2 was arrested on 6th February 2018. That, on 28th July 2018, the Respondent No.2 entered into Consent Terms with the First Informant i.e. Applicant in Criminal Application No.590 of 2019 and thereafter, moved Bail Application No.1386 of 2018 for bail. This Court, therefore, without going into the merits of the matter and after accepting the said Consent Terms and the undertakings mentioned therein, granted bail to the Respondent No.2. The said Consent Terms dated 28th July 2018 are part of record.

3. Record further indicates that, Respondent No.2 did not comply with the undertakings given by him in the Consent Terms dated 28th July 2018. The First Informant therefore filed Criminal Application No.590 of 2019 for cancellation of bail of the Respondent No.2. My predecessor-in-title by its Order dated 20th September 2019, was pleased to extend period for payment of the amount agreed to be paid by the Respondent No.2 to the Informant and had permitted him to deposit the entire amount in two installments and the

entire amount on or before 22nd October 2019. At that time, Respondent No.2 was personally present in the Court had assured this Court that, he will not seek any extension of time for depositing the aforesaid amounts and had also undertaken to pay interest component as per bank interest on the said amount between the period from October 2018 till the date of passing of the said Order i.e. 20th September 2019. In para No.2 of Order dated 20th September 2019, this Court has observed that in fact, as there is a breach of Consent Terms, the bail granted to the Respondent No.1 deserves to be canceled and only by way of indulgence, at the request of learned counsel appearing for the Respondent No.2 to comply the Order, the said period was extended upto 22nd October 2019. It has also been observed in the said Order that, if there is a single default in making the payment, the said Application i.e. Application No.590 of 2019 will be heard and decided on its own merits.

4. The record further indicates that, on 4th October 2019 again an extension was sought by Respondent No.2 to deposit the balance amount of Rs.57,50,000/- upto 11th November 2019, which was accordingly granted. The Respondent No.2 had filed an Affidavit dated 4th October 2019 thereby assuring this Court to deposit Rs.57,50,000/- in the Registry on 11th November 2019.

5. It appears that, the Applicant thereafter did not comply with his said solemn statement made before this Court even on 4th October 2019. The said

Criminal Application No.590 of 2019 which is pending for hearing is, accordingly taken up for hearing today. It is to be noted here that, in the interregnum, the Applicants in Interim Application No.1658 of 2021 also filed the said Application for cancellation of bail.

This Court, while issuing notice to the Respondent No.2 in Order dated 29th July 2021 has observed as under :-

- 1. The material available on record indicates that, the Respondent No.2/Applicant in Bail Application No.1386 of 2018 has failed to comply with the Consent Terms dated 28th July, 2018 and undertaking given to this Court on 10th August 2018, which are recorded in the Order of even date passed in Bail Application No.1386 of 2018.*
- 2. It further appears from the record that, even after granting extensions on the Applications made by the Respondent No.2, the Respondent No.2 has not complied with his undertaking. In view of the matter, the Respondent No.2 is put on notice, as to why his bail should not be cancelled for non-compliance of his undertaking.*

6. Today also, learned counsel for Respondent No.2, on instructions, again seeking further time of four weeks for depositing the said balance amount. It will not be out of way to place the fact on record that, on 21st August 2021 this Court had granted time upto today to Respondent No.2 to deposit the balance amount as has been recorded in Orders dated 20th September 2019 and 4th October 2019. Mr. Dubey, learned counsel for the

Respondent No.2, on instructions, submitted that, due to various medical exigencies in the family of the Respondent No.2, he could not deposit the said amount within the stipulated period in last two years.

The chronology of events narrated hereinabove, are admitted facts on record. The conduct of the Respondent No.2 disentitles him from showing any leniency hereinafter. It appears to this Court that, the Respondent No.2 after coming out of jail, has shown scant respect to his own solemn statements made before this Court by way of filing Consent Terms and undertakings therein. Even the solemn statements made by him and recorded in Orders dated 20th September 2019 and 4th October 2019, passed in Criminal Application No.590 of 2019, are not been honoured by him till today. The further solemn statements made by him in Affidavit dated 4th October 2019 have also not been complied by him till today. It appears to this Court that, the Respondent No.2 submitted the said Consent Terms before this Court only to procure an Order of release of bail and for coming out of jail and none else. After he came out of jail, he has conveniently given a go bye to his undertakings and solemn statements made before this Court. It is to be noted here that, on 4th October 2019, the Respondent No.2 had taken spacious plea before this Court that, he could not deposit the balance amount of Rs.57,50,000/- earlier and sought extension of time upto 11th November 2019 due to the festival of Diwali and elections.

It thus appears that, the Respondent No.2 is changing his stances to suit his convenience, only with a view to shrug off his responsibility and statements made before this Court. As recorded in Order dated 20th September 2019, in fact there is a breach of Consent Terms and the undertakings given by the Respondent No.2, and therefore, the bail granted to the Respondent No.2 deserves to be cancelled and is accordingly cancelled.

7. In view of the above, bail granted to the Respondent No.2 by Order dated 10th August 2018, is hereby cancelled. Respondent No.2 is directed to surrender before the learned Judicial Magistrate, First Class, Bhiwandi, having jurisdiction over Narpoli Police Station, District Thane, within a period of seven days from the date of uploading of the present Order on the High Court website.

8. Both the Applications are allowed in the aforesaid terms.

[A.S. GADKARI, J.]

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