

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Criminal Application (APPLN) No. 14 of 2020

(Nadeem Gulam @ Lucky ..vs.. The State of Maharashtra through P.S.O. of P.S. Mankapur, Nagpur
and anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P. W. Mirza, Advocate for the applicant
Mr. S. S. Doifode, APP for non-applicant 1
Mr. D. M. Dixit, Advocate for non-applicant 2

CORAM : ROHIT B. DEO, J.

DATED : 08-03-2021

Heard.

2. This application is preferred under Section 439(2) of the Code of Criminal Procedure seeking cancellation of bail granted to non-applicant 2 in Crime 188/2019 registered with Mankapur Police Station, Nagpur for the offences punishable under Sections 141, 143, 147, 148, 149, 341, 307, 120-B of the Indian Penal Code, Section 3 read with Section 25 of the Arms Act and Section 135 of the Maharashtra Police Act.

3. I have heard the learned counsel Mr. Parvez Mirza, learned counsel Mr. D. M. Dixit and learned

Additional Public Prosecutor Mr. Doifode for the applicant, accused and the State respectively.

4. The learned Additional Sessions Judge was pleased to grant regular bail noting that the accused is in custody since more than five months. The learned Additional Sessions Judge further noted that the recovery of the alleged weapon is made and no purpose shall be served by continued incarceration.

5. Two submissions are canvassed in support of the application for cancellation of bail.

6. The first submission touches the merits of the matter. However, in my considered view, the learned Additional Sessions Judge did not commit any error in exercise of the discretion. The discretion is not exercised in arbitrary or whimsical manner and it would not be permissible for this Court to lightly disturb the grant of bail.

7. The second submission is that the accused has adverse antecedents which were not brought to the

notice of the learned Additional Sessions Judge. I have considered the adverse antecedents and I find that the accused is not facing any serious allegations as such. Two cases are allegedly pending. One of them pertains to beating drum in violation of an order issued under the Maharashtra Police Act and while the second pertains to an allegation of extortion, the accused has stated on oath that he was not aware of the pendency of the case, that he was indeed summoned to the police station where the complainant did not identify him and was allowed to go home. According to the accused, he has not been summoned in the police station thereafter.

8. Ordinarily, the exercise of discretion by the trial Court must be respected. Cancellation of bail has serious implications. Unless the exercise of discretion is found to be grossly arbitrary or whimsical, it would not be appropriate to cancel the bail. Notably, there is no complaint even after the passage of one year and nine months of the alleged incident that the accused has misused the liberty or that he has indulged in any

offence while on bail.

9. The application is dismissed.

JUDGE

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