

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

CRIMINAL APPLICATION (APPP) NO.417 OF 2021
IN
CRIMINAL APPLICATION (BA) NO.623 OF 2020

(Nandlal Loturam Wasnik Vs. State of Maharashtra thr. PSO PS Desaiganj, Dist.
Gadchiroli)

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

Court's or Judge's orders.

Mr. Mohd. A. Qureshi, Advocate for Applicant.
Mr. M.K. Pathan, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 7th JULY, 2021.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. This application is preferred by the State of Maharashtra seeking cancellation of bail granted by this Court (Coram: Pushpa V. Ganediwala, J.) in connection with Crime 208/2019 registered at Police Station Desaiganj, District Gadchiroli for offence punishable under Sections 341 and 395 of the Indian Penal Code, vide order dated 20.08.2020 rendered in Criminal Application (BA) 623/2020.

3. The cancellation is sought on the premise that the order of bail is procured by gross suppression of fact and

is tainted with fraud. The learned APP Mr. Pathan would submit that the accused Nandlal Loturam Wasnik procured the bail by suppressing that this Court (Coram: V.M. Deshpande, J.) had already rejected the bail on merit vide order dated 07.01.2020 rendered in Criminal Application (BA) 1152/2019.

4. Mr. Pathan invites my attention to the successive bail application dated 05.08.2020 to buttress the submission that the accused did not disclose the factum of earlier rejection of bail on merit.

5. The learned counsel for the accused Mr. Qureshi is not in a position to dispute the factual aspect of the gross suppression. Mr. Qureshi would make a feeble attempt to justify the suppression on the premise that a different lawyer appeared in the successive bail application. The feeble explanation put-forth is noted only as a courtesy to the learned counsel Mr. Qureshi.

6. The allegations are grave and perusal of the order of rejection rendered by this Court (Coram: V.M. Deshpande, J.) would reveal that the bail was rejected after due consideration of the incriminating material on record and all relevant parameters.

7. While a successive application can always be preferred if there is any change in circumstances, twin tests

must be satisfied. The first is a true and faithful disclosure of the earlier rejection by the High Court or any court of the bail application and the second test is the disclosure of such change, which is not superficial or cosmetic, but which is a substantial change as would warrant revisiting the entitlement to bail.

8. In the case at hand, the accused neither disclosed the factum of earlier rejection nor did the accused even make an attempt to seek bail on the ground of change in circumstances.

9. This Court is satisfied that the attempt of the accused was to pollute the stream of justice. It would be a travesty of justice if the accused is permitted to continue to enjoy the ill gotten fruits of the fraud.

10. This application deserves to be allowed, and is accordingly allowed.

11. The bail granted to the accused Nandlal Loturam Wasnik in Crime 208/2019 vide order dated 20.08.2020 in Criminal Application (BA) 623/2020 (Coram: Pushpa V. Ganediwala, J.) is cancelled and the accused is directed to surrender to custody within the next 72 hours.

12. The accused Nandlal Loturam Wasnik shall pay costs of Rs.25,000/- which shall be deposited with the High

Sub Committee, Nagpur, within the next 14 days, and in default the said amount shall be recovered by the Collector, Gadchiroli as arrears of land revenue.

13. The Registry shall ensure that copy of this order is brought to the notice of the learned Principal District and Sessions Judge, Gadchiroli, within the next 72 hours.

14. If the accused Nandlal Loturam Wasnik does not surrender within the next 72 hours the Superintendent of Police, Gadchiroli shall personally ensure that he is taken in custody and produce before the jurisdictional court.

15. List this disposed of application on 23.07.2021 under the caption “for compliance”.

16. Steno copy is granted.

JUDGE