

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 200 OF 2022

Rohit s/o Daulatrao Deshmukh

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. S. S. Rathi, Advocate for the appellant.

Mr. A. M. Phule, APP for respondent/State.

Mr. Shoib Shaikh, Advocate (appointed) for respondent No. 2.

**CORAM : R. G. AVACHAT &
R. M. JOSHI, JJ.**

DATE : 11th OCTOBER, 2022.

PER COURT : (PER : R. M. JOSHI, J.)

1. This appeal is filed against the order dated 25th February, 2022, passed in Criminal Misc. Application No. 3/2022 of cancellation of bail granted on 24th August, 2020, in connection with Crime No. 299/2020 registered with Hingoli City Police Station, Hingoli.

2. Informant / respondent No. 2 filed application for cancellation of bail before Additional Sessions Judge, Hingoli, on the ground that there is breach of conditions imposed while granting bail to the appellant. It is also alleged by respondent No. 2 in the said application that subsequently, appellant had forcibly terminated her pregnancy and in connection with the same, separate crime has been registered against the appellant.

3. Learned counsel for the appellant argued that there is no intended breach of the conditions. According to him, there is no justification of cancellation of the bail on the ground of registration of another offence against the appellant as he is already enlarged on bail in the said crime during pendency of this appeal.

4. Learned APP strongly opposed the appeal with apprehension of pressurising of respondent No. 2 by appellant. Learned counsel for respondent No. 2 while resisting this appeal took this Court through the contention of respondent No. 2 about appellant entering in the vicinity of Hingoli city and staying with respondent No. 2 which, according to him, is the breach of condition of bail. He further raised apprehension that if bail is granted to the

appellant, there is every possibility of appellant again breaching the condition of entering the city and thereby committing any further act against respondent No. 2.

5. Perusal of order dated 24th August, 2020, whereby accused was enlarged on bail, shows that he was ordered not to enter Hingoli city except to attend trial. He was also prevented from pressurising the informant and other witnesses directly or indirectly and not to tamper evidence. The whole idea behind imposing condition is not to curtail his liberty but only to ensure that respondent No. 2 who is the wife of appellant does not get pressurised in any manner by the appellant during the pendency of the trial.

6. Admittedly, respondent No. 2 and appellant stayed together for considerable time and had established consensual physical relations too which indicate that there was no attempt of pressurising nor any attempt is made by the appellant to forcibly impose himself on respondent No. 2. Learned trial Court has also observed that they stayed in a place proximate to Hingoli city and not in Hingoli city itself, meaning thereby on that count no breach has

been committed of condition imposed. Learned counsel for respondent No. 2 pointed out that around December 2021, the appellant had entered Hingoli city in the area called 'Mondha' with respondent No. 2. As far as said allegation is concerned, it can be safely said that the same was with positive approval of respondent No. 2.

7. As far as registration of other crime is concerned, the appellant is already enlarged on bail and hence registration of that crime will not become a ground for cancellation of bail in another case.

8. In order to substantiate the contention of cancellation of bail, it must be brought on record that the appellant had breached the condition in order to create impediment in the trial. There is nothing on record to indicate that even remotely the appellant had pressurised respondent No. 2 or any other witness. Considering the entire facts and circumstances, it cannot be held that there was any unilateral act of appellant and in fact respondent No. 2 appear to be consenting party to the stay in proximity and visit in Hingoli. These circumstances were not considered by the learned trial Court while

cancelling bail and hence impugned order cannot sustain.

9. In view of the above, the appeal is allowed. Impugned judgment and order dated 24th February, 2022, passed by the learned Additional Sessions Judge, Hingoli is quashed and set aside.

(R. M. JOSHI)
Judge

(R. G. AVACHAT)
Judge

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