

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

APPLICATION FOR CANCELLATION OF BAIL NO.64 OF 2022

MUSTAFA BAIG S/O ISSA BAIG MIRZA
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Deshmukh Swapnil A
APP for Respondent/State : Ms. V.S. Choudhari
Advocate for Respondent No.2 : Mr. H.V. Tungar
...

CORAM : S.G. MEHARE, J.

DATED : 10th NOVEMBER, 2022

PER COURT:-

1. None present for either side. The applicant and his counsel seem to have no interest in prosecuting the application. Hence, the application stands dismissed for default.

2. The counsel for the applicant appeared later on. At the oral request of the applicant, the application has been restored.

3. Heard learned counsel for the applicant. He is seeking cancellation of bail only on the ground that respondent no.2 has assaulted him with a knife. He is a Police Sub-Inspector, and he has suffered grievous injury. The Court did not consider the objections raised by the police that he may flee away. On these two grounds only, he is

seeking cancellation of bail. He has no arguments that the order passed by the learned Sessions Judge, Dhule, is arbitrary and perverse.

4. Learned counsel appearing for non-applicant no.2 has strongly opposed the application. He would contend that there are no substantial grounds to cancel the bail. The order passed by the learned Sessions Court is legal and proper.

5. The law is settled that the Superior Court has the power to cancel the bail granted by the subordinate Courts, where bail is granted illegally and contrary to the law. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail already granted. The order granting bail should not be perverse and arbitrary.

6. Perused the order of the learned Sessions Judge. It reveals that the learned Sessions Judge has considered the fundamental aspects, the nature of injuries and the discharge of the injured. He also specifically observed that the applicant was out of danger. The injured and the accused were not knowing each other before the date of the incident. A sudden quarrel took place on the spot of the incident. The weapon was also seized. It appears from the order impugned that the Court did not ignore any material fact. So far as the objection of the police that he may flee away from the prosecution has no basis unless supported by facts

and the past record. The applicant also has no apprehension of threats as the accused respondent no.2 is the resident of another village. Considering the facts of the case, it does not appear that the learned Sessions Judge has violated the settled principle of granting bail. He has not committed any error in exercising discretion. It also does not seem illegal and arbitrary. There is no ground to interfere with the order of bail to respondent no.2. Hence, the application stands dismissed.

(S.G. MEHARE, J.)

Mujaheed//