

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**34 APPLICATION FOR CANCELLATION OF BAIL NO.147 OF 2020
IN BA/97/2019**

SATISH RAGHUNATH KHILARI
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Advocate for Applicant : Mr. Mundhe Shrimant
APP for Respondent No.1 – State : Mr. A. M. Phule
Advocate for Respondent No.2 : Ms. Pratibha Suryawanshi (appointed
through Legal Aid)

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 10.01.2022

ORDER :-

. Present application has been filed by the original informant under Section 439(2) of the Code of Criminal Procedure.

2. Present respondent No.2 was the accused No.2 in Crime No.585 of 2018 registered with Rahuri Police Station, Dist. Ahmednagar for the offences punishable under Sections 302, 201, 120(B), 143, 147, 148, 149, 323 of Indian Penal Code. Perusal of the FIR and the charge-sheet would show that there were in all six accused persons against whom the said charge-sheet was forwarded by the police after the investigation. Present respondent No.2 had filed Bail Application No.97 of 2019 before this Court under Section 439 of the Code of Criminal Procedure. The

said application came to be allowed on 28.02.2019 and conditions were imposed. Following are the conditions, which were imposed on the applicants :-

- “(a) Immediately after they are released on bail they shall leave the territorial limits of Rahuri Taluka and shall not enter it till conclusion of the trial.
- (b) They shall not tamper the evidence or influence the witnesses.
- (c) They shall punctually attend the trial and any two consecutive absence without the leave of the Court shall result in cancellation of bail.”

3. Present applicant – original informant contends that there is breach of term No.(a) by the present respondent No.2. Offence vide Crime No.1602 of 2020 came to be registered against respondent No.2 and others with the same police station on 07.10.2020 for the offences punishable under Sections 307, 504, 506 read with Section 34 of Indian Penal Code and Section 4 punishable under Section 25 of the Indian Arms Act. It is the FIR lodged by one Pravin Vilas Kolse in respect of an offence committed around 9.30 p.m. on 07.10.2020. He is a hotel owner and it is stated that all the accused persons including present respondent No.2 had come there armed and assaulted various persons with an intention to kill. It is stated that present respondent No.2 was

holding wooden log.

4. It is to be noted that the notice was issued to respondent No.2 by order dated 14.12.2020. He was served and he appeared through Advocate before this Court on 04.01.2021 and the learned Advocate prayed for time to file reply. Thereafter, on certain occasions, the adjournments have been sought. Ultimately, on 21.09.2021, the learned Advocate, who was representing respondent No.2 has withdrawn his Vakalatnama. Again the notice was then issued to respondent No.2. It was served but he had not appeared. Under such circumstance, by order dated 26.10.2021, this Court appointed Advocate to represent the cause of respondent No.2 through the High Court Legal Services, Sub-Committee, Aurangabad. Even notice through police was served to respondent No.2. He acknowledged the same, but did not appear. If we peruse the notice which has been marked 'X' on 17.12.2021 by this Court, it was addressed at the residence of respondent No.2 i.e. at Valan, Tq. Rahuri, Dist. Ahmednagar. That means, even on 15.12.2021, when the notice was served to him, he was in Rahuri Taluka and, therefore, this amounts to the breach of condition of the bail granted to respondent No.2 by this Court on 28.02.2019. Taking into consideration the criminal background and the seriousness in the offence, the said term was imposed by this Court, however, respondent No.2 has breached the

condition. So also, his conduct in not responding properly to the notices issued by this Court and also not coming forward to put his say on the application prompts this Court to exercise the powers under Section 439(2) of the Code of Criminal Procedure. Hence, the following order :-

ORDER

- I) Application for Cancellation of Bail stands allowed.
- II) The order passed by this Court in Bail Application No.97 of 2019 on 28.02.2019 in respect of present respondent No.2 is hereby recalled. In other words, the bail granted to present respondent No.2 stands cancelled.
- III) In view of the same, the learned Additional Sessions Judge, before whom the Sessions Case No.266 of 2018 is pending, to issue Non-Bailable warrant and secure the presence of respondent No.2.

[SMT. VIBHA KANKANWADI, J.]

scm