

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO.163 OF 2021

Dharmaraj s/o Kisanrao Birgad

... Applicant

Versus

1. The State of Maharashtra

2. Sangita w/o Prakash Apet

... Respondents

...

Mr. S. A. Ambad, Advocate for applicant.

Mr. N. T. Bhagat, APP for respondent No.1.

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 15.02.2022

ORDER :-

1. The applicant seeks cancellation of bail granted to respondent No.2 by this Court on 04.08.2021 in Anticipatory Bail Application No.376 of 2021 on the ground that she has willfully disobeyed the order passed by this Court.

2. Heard learned Advocate Mr. S. A. Ambad for the applicant and learned APP Mr. N. T. Bhagat for the respondent – State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. The applicant is the original informant, who had lodged the FIR vide Crime No.7 of 2021 with Ambajogai City Police Station, Dist. Beed for the offence punishable under Sections 406, 420, 417, 467, 468, 469,

471 read with Section 34 of Indian Penal Code. That offence was registered against 13 persons. The applicant was shown as accused No.2. She has been stated to be the Secretary of Shital Gramin Bigar Sheti Nagari Sahakari Patsanstha Maryadit, Girwala. It was then stated that the informant had deposited in all amount of Rs.11,86,482/- in the said Patsanstha. When he had gone to withdraw the amount on 01.04.2019, he was asked to come later and the amount was not allowed to be withdrawn. The said amount has not been returned and, therefore, he says that he was cheated. Thereafter, on 23.04.2019, the accused persons had prepared a forged document of withdrawal and had withdrawn the amount, thereby he has been cheated and the amount has been misappropriated.

4. When the matter was on board on 03.08.2021 before this Court (Coram : Sandeep K. Shinde, J.), in Anticipatory Bail Application No.376 of 2021 and other companion matters including that of which was filed by the present applicant, this Court had noted the instructions those were received by the learned Advocate for applicants. He had then made statement that applicant No.2 would deposit amount of Rs.15,00,000/- in the Trial Court. Undertaking was directed to be filed before this Court on 04.08.2021 and then on 04.08.2021, the applications were allowed. The applicant – informant now says that the

amount has not been so deposited before the Trial Court and, therefore, there is breach of term of the bail.

5. It is to be noted that when the matter was on board on 03.08.2021, on instructions, the undertaking was given by the learned Advocate for the applicant that applicant No.2 would deposit amount of Rs.15,00,000/- in the Trial Court and the next day's date was given for filing of an undertaking to that effect by applicant No.2. In fact, when the amount was to be deposited was not stated in the order and on the next date, it was not brought to the notice of this Court. It was not even pointed out by any of the Advocate as well as APP even the Advocate for the informant, who was assisting the APP, that the matter was kept on that day i.e. 04.08.2021 just for filing the undertaking by applicant No.2 therein i.e. present respondent No.2. In the operative order, which ultimately allowed the applications, there is absolutely no such direction. Under such circumstance, whatever was stated at the interim stage which was not even in the form of order, but it was only the undertaking, then there is no question of inferring non deposit of the said amount before the Trial Court as breach of term of bail. Therefore, the application has no merits. It stands rejected.

[SMT. VIBHA KANKANWADI, J.]

scm