

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

APPLICATION FOR CANCELLATION OF BAIL NO.171 OF 2021

Firoz Nizamsab Sayyed

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
- 2) Shri Shantveer S/o Hanmant Biradar

...RESPONDENTS

...
Mr.G.R. Syed Advocate for Applicant.
Mr.V.M. Kagne, A.P.P. for Respondent No.1 – State.
Mr.P.P. More Advocate for Respondent No.2.
...

WITH

APPLICATION FOR CANCELLATION OF BAIL NO.170 OF 2021

Firoz Nizamsab Sayyed

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
- 2) Mahesh Gurunath Biradar

...RESPONDENTS

...
Mr.G.R. Syed Advocate for Applicant.
Mr.V.M. Kagne, A.P.P. for Respondent No.1 – State.
Mr.P.P. More Advocate for Respondent No.2.
...

WITH

APPLICATION FOR CANCELLATION OF BAIL NO.172 OF 2021

Firoz Nizamsab Sayyed

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
- 2) Rajkumar @ Maroti S/o Laxman Biradar

...RESPONDENTS

...
Mr.G.R. Syed Advocate for Applicant.
Mr.V.M. Kagne, A.P.P. for Respondent No.1 – State.
Mr.Ameya N. Sabnis Advocate for Respondent No.2.

...

WITH

APPLICATION FOR CANCELLATION OF BAIL NO.185 OF 2021

Firoz Nizamsab Sayyed

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
- 2) Tanaji S/o Madhav Phule

...RESPONDENTS

...
Mr.G.R. Syed Advocate for Applicant.
Mr.V.M. Kagne, A.P.P. for Respondent No.1 – State.
Mr.Ajinkya S. Reddy Advocate for Respondent No.2.

...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE OF RESERVING ORDER : 23rd FEBRUARY 2022

DATE OF PRONOUNCING ORDER : 8th JUNE 2022

ORDER :

1. All these Applications have been filed by the original informant under Section 439(2) of the Code of Criminal Procedure for cancellation of bail granted to the respective respondents.

2. It will not be out of place to mention here that except bail granted to Tanaji S/o Madhav Phule - respondent No.2 in Anticipatory Bail Application No.185 of 2021, other respondent No.2 in other respective Applications have been granted regular bail by this Court. Even respondent No.2 in Anticipatory Bail Application No.185 of 2021 has been granted bail under Section 439 of the Code of Criminal Procedure by the learned Additional Sessions Judge-2, Udgir on 7th October, 2021 i.e. after the other respondents in other Applications were granted bail by this Court on 3rd September 2021. That means, the learned Additional Sessions Judge-2, Udgir had invoked the ground of parity for the

said respondent No.2 in Anticipatory Bail Application No.185 of 2021.

3. Heard learned Advocate for the applicant, learned APP for the respondent No.1 – State and learned Advocate for respondent No.2 in respective Applications. In order to cut-short, it can be stated that both the sides have made submissions in support of their respective contentions.

4. The learned Advocate for the applicant has taken this Court through the entire bunch of the documents including the charge-sheet and taken this Court through the statements of the witnesses, postmortem report and other documents. It is to be noted that the applicant in all the Applications is the original informant, who had witnessed the incident. Deceased Shafi Ahmed Sayyad was the cousin brother of the informant. The incident had taken place on 13th January 2021 around 8.00 p.m. and the First Information Report came to be lodged on 17th January 2021 vide Crime No.40 of 2021 for the offence punishable under Sections 302, 307, 504 read with Section 34 of the Indian Penal Code and under Sections 39, 45 and 46 of the Maharashtra Money Lending (Regulation) Act, 2014, with Udgir Rural Police Station, District-Latur.

5. It can be seen that the charge-sheet was filed before the learned Judicial Magistrate First Class, Udgir on 15th April 2021. That means, when this Court passed the order dated 3rd September 2021, it has perused the charge-sheet and specific mention about the same has been made in the order. The order further shows that the present informant, who was represented by the same Advocate, was also heard by this Court before enlarging the respective respondents on bail. When the bail order has been passed by Co-equal Bench of this Court, taking into consideration the entire charge-sheet, then Application under Section 439(2) of the Code of Criminal Procedure challenging the merits or reasons for grant of bail, cannot lie before this Court. The applicant cannot be allowed to say now that he did not point out the criminal history of the accused Nos.2 to 4 when their bail Applications were considered by this Court. There was every opportunity to the applicant as well as to the investigating agency to point out the criminal history of the accused – respondents.

6. The present applicant has not come with the case that there is any breach of the term imposed by this court, by the respective respondents. Under such circumstances, when the

earlier order has been passed on merits by this Court only and the learned Additional Sessions Judge has granted bail to respondent No.2 in Anticipatory Bail Application No.185 of 2021 on the ground of parity, the Applications, are not maintainable and deserves to be rejected.

7. Accordingly, all the Applications stand rejected.

[SMT. VIBHA KANKANWADI , J.]

asb/MAY22