

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1367 OF 2021

VIJAY CHHANDLAL GADILOHAR

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioners : Mr. Patil Sandesh R.

APP for Respondent No.1 : Mr. Y. G. Gujrati

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CORAM : KISHORE C. SANT, J.

DATE : 1st DECEMBER 2022.

Per Court :

1. This petition is filed against the order passed by the learned Additional Sessions Judge, Jalgaon dated 06.03.2020 in Criminal Miscellaneous Application No. 45/2019 that was filed by Respondent No.2/Original Informant. By way of impugned order, the learned Judge has cancelled the bail granted to the Petitioner by order dated 22.02.2019 in Criminal Anticipatory Bail Application No. 100/2019.

2. The Respondent No.2 in spite of service has not appeared before

the Court. The matter is taken for final disposal by consent of the Petitioner and learned APP.

3. It is the submission of learned Advocate for the Petitioner that the learned Sessions Judge, while passing the impugned order has passed the same in casual manner. There is no any sufficient ground to cancel the bail, that was already granted. The ground on which the bail application was cancelled, is sought only that the Applicant/Petitioner has breached some of the conditions i.e. attending the Police Station etc.

4. Considering the bail was initially granted, the operative order is reproduced below :

ORDER

- (1) The anticipatory bail application is hereby allowed.
- (2) The petitioner is hereby released on anticipatory bail, in the event of his arrest, in Crime No.4/19 registered at Dharangaon police station, Tal. Dharangaon Dist. Jalgaon on his executing P.R. Bond of Rs.30,000/- (Rupees Thirty thousand) with one solvent surety, in the like amount.
- (3) The petitioner is directed not to tamper with the evidence and shall not induce, threat or a

promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

- (4) The petitioner shall attend in accordance of conditions of the bond.
- (5) The petitioner shall not leave India, without prior permission of the Court.
- (6) The petitioner is directed to present at concern police station as and when directed by the Investigating authority.
- (7) The petitioner shall not indulge in any criminal activity having, during the period of bail.
- (8) The petitioner is directed to surrender his passport if having, before the concern court.
- (9) The petitioner is directed to furnish his proper address at concern police station along with his cell phone number at the time of furnishing bail.
- (10) Inform the concerned police station accordingly.

. Learned Advocate thus, prays for quashing and setting aside of the impugned order.

5. Learned APP vehemently opposed the petition. He produced on record the police papers, which show that the Petitioner is not found on the given address i.e. mentioned in his application and his whereabouts also are not found also. There is specific communication showing that

though the Petitioner has given address of Kalyan, District Thane, even he was tried to be searched on that address with the help of police at Kalyan. It was found that he is not residing on the same address. Thus, it is clear that he is jumping out of the bail as there is no assurance of his presence that he would be available for the trial. Learned APP supports the order passed by the learned Additional Sessions Judge. Thus, he prays for rejection of this petition.

6. It is settled position that bail once granted, normally should not be cancelled. There has to be strong reason and ground to cancel the order of bail. This Court does not find that such ground is made out, which would require to cancel the bail. However, looking at the police papers and the submission of learned APP, it is equally necessary to put some conditions upon the Petitioner to secure his presence. Hence the following order.

ORDER

- (i) The impugned order dated 06.03.2020 is quashed and set aside, subject to condition that the Petitioner shall file affidavit in this Court, stating that he will attend police station as and when called by the Police and will give its copy to Investigating Officer.

- (ii) The Petitioner shall furnish address, where he residing.
- (iii) The Petitioner shall not leave his usual place of residence without permission of police.
- (iv) The Petitioner shall give details of his mobile number to the police authorities, by which he can be traced by the police whenever required.
- (v) Petitioner shall also furnish details of two contact numbers of his relatives to whom Police can contact, in case Petitioner is not traced out.
- (vi) With this, Writ Petition stands disposed off.

[KISHORE C. SANT, J.]

Najeeb.