

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 444 OF 2022
IN
BAIL APPLICATION NO. 922 OF 2018

State Of Maharashtra

.....Applicant

Vs.

Maresh Munna Pal

.....Respondent

Mr. S. S. Hulke, APP for State.

Mr. Subir Sarkar a/w Amandeep Singh for Respondent.

CORAM : A. S. GADKARI, J.

DATE : 14th JUNE, 2022.

P.C.:-

Present Application under Section 439(2) of the Code of Criminal Procedure, 1973 (for short Cr.P.C.) is filed by the State for cancellation of bail of Respondent.

2. Heard Mr. Hulke, learned APP for the State and Mr. Sarkar, learned Advocate for the Respondent. Perused record.

3. Respondent is an accused in Crime No. I-123 of 2015 registered with Kalyan Taluka Police Station for offences punishable under Sections 307, 143, 147, 148, 149, 504, 507, 427, 120B of the Indian Penal Code; under Sections 3(1), 25 and 27 of the Arms Act and under Sections 3(1)(ii), 3(2) and 3(4) of Maharashtra Control of Organized Crime Act.

By an Order dated 3rd March, 2020, the Respondent was directed to be released on bail on certain terms and conditions by this

Court. Condition Nos.(iii) and (vii) of the said Order reads as under:-

(iii) The Applicant shall not enter the jurisdiction of Murbad and Kalyan Taluka Police Station, except for the purpose of attending the court case in Kalyan, on the dates given by the trial Court;

(vii) It is made clear that, if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

4. The Applicant was accordingly released on bail.

It is the prosecution case that, co-accused Ganesh Mhaskar was released on bail on 1st July, 2021 at about 03.00 p.m. from Adharwadi Prison, Kalyan. After release of the said co-accused Mr. Ganesh Mhaskar from jail, while he was returning back to village Varap, Taluka Kalyan, six to seven four wheeler vehicles accompanied him and in procession took him to the said village. It is the allegation of the prosecution that, Respondent in breach of condition No.(iii) above entered into village Varap, which is situated in the jurisdiction of Kalyan Taluka Police Station and participated in the said procession. The well wishers of co-accused Ganesh Mhaskar did video recording of said entire procession and the same was thereafter circulated on social media. Police came to know about the said video recording, after which they verified it and found that the Respondent had participated in the said procession by entering into the jurisdiction of Kalyan Taluka Police Station.

Police have accordingly lodged crime No.389 of 2021 dated 2nd July, 2021 against Ghanesh Mhaskar and others including the Respondent under various provisions of the Indian Penal Code and Maharashtra Police Act, 1951.

5. As the Respondent committed breach of condition No.(iii) imposed upon him, prosecution has filed present Application for cancellation of his bail. The Respondent has filed an affidavit in reply dated 6th April, 2022. In para No.6 of the said affidavit, it is stated that, the mother of Respondent is suffering from various ailments and in view of the Covid-19 pandemic, she was in need of extra and constant care and attention and therefore it became imperative for the Applicant to attend her and accordingly entered in jurisdiction of Kalyan Taluka Police Station.

6. Mr. Sarkar, learned Advocate for Respondent submitted that, even after commission of the said act on 1st July, 2021, more than a year has lapsed and therefore at a belated stage, the bail granted to Respondent may not be cancelled. He further submitted that, in the said interim period, there is no report of Respondent committing any act of violation of any other condition of bail order and in view of the said supervening circumstance also, the bail granted to Respondent cannot be cancelled.

7. Perusal of record indicates that, the Respondent is a habitual offender and six other cases are pending for final adjudication against him. It is an admitted fact on record that, the Respondent committed breach of

bail condition No.(iii) noted hereinabove; entered in the jurisdiction of Kalyan Taluka Police Station, District Thane (Rural) on 1st July, 2021; participated in the procession of co-accused Ganesh Mhaskar and indulged into the act of unlawful assembly for lighting firecrackers and created terror in the said area. These facts can clearly be seen from the First Information Report lodged by Mr. Yashvant Sadu Nikam, Police Head Constable attached to Kalyan Taluka Police Station. As the Respondent has committed breach of condition No.(iii) noted hereinabove read with condition No.(vii), it is therefore imperative to cancel his bail granted by this Court by Order dated 3rd March, 2020 and is accordingly cancelled.

Application is allowed in terms of prayer clause (c).

8. Respondent is directed to surrender before the learned Judicial Magistrate First Class, Kalyan having jurisdiction over Kalyan Taluka Police Station, District Thane (Rural) on or before 2.00 p.m. on 24th June, 2022. The learned Magistrate is directed to send Respondent to appropriate jail by following necessary procedure.

9. If the Respondent fails to surrender himself before the learned Judicial Magistrate First Class, Kalyan as noted hereinabove, the Applicant will be at liberty to arrest the Respondent and produce him before the concerned Magistrate for sending him to jail by following necessary procedure in that behalf.

(A.S. GADKARI, J.)