

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 756 OF 2022

Mr. Ajit Kumar Singh @

Ajit Pramod Singh

v/s.

The State of Maharashtra

.... Applicant

.... Respondent

Mr. Ashish Baraskar for the Applicant.

Mr. M.G. Patil, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 22nd MARCH, 2022.

P. C. :-

. The Applicant has challenged the order dated 11/03/2022 whereby the learned Additional Sessions Judge, Thane has cancelled pre-arrest bail granted vide order dated 21/01/2019 in Anticipatory Bail Application No.137/2019 for violating the conditions of bail.

2. The Applicant herein had filed Anticipatory Bail Application No.137/2019 for pre-arrest bail in C.R.No.I-2/2019 which was registered at Rabale Police Station for offences punishable under sections 323, 406, 498A, 504, 506(2) r/w. 34 of the Indian Penal Code. The said crime was registered pursuant to the first information report lodged by Preeti Singh, the wife of the Applicant. By order dated

21/01/2019, the learned Additional Sessions Judge, Thane granted bail to the Applicant and the other co-accused subject to the conditions that :-

(i) That the applicants/accused shall make themselves available for interrogation by a police officer as and when required.

(ii) That the applicants/accused shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the accusation against them so as to dissuade him from disclosing such facts to the court or to any police officer.

(iii) That the applicants/accused shall not contact with the informant or the witnesses by telecommunication or by any other means and shall not pressurize them.

(iv) That the applicants/accused shall keep themselves away from the residence of the informant and shall not tamper the prosecution witnesses and evidence.

(v) That the applicants/accused shall not leave jurisdiction of this court without the previous permission of the court.

3. The first informant filed an Application under section 439(2) of

Cr.P.C. for cancellation of pre-arrest bail on the ground of violation of terms and conditions of the bail order. The learned Judge, upon perusal of the record produced before the Court, held that the Applicant had made several calls to the first informant, had sent messages, e-mails and has thereby committed clear breach of condition imposed by the Court while enlarging on bail. The Court has observed that the language used in the messages/e-mails shows utter disregard to the legal system as well as police. The learned Judge has further observed that the Applicant has travelled abroad without prior permission of the Court. The learned Judge has held that though the Applicant has right to travel abroad, all that he was required to seek permission so that the Court could impose additional security for securing his attendance, the Applicant did not seek such permission and thus committed breach of the condition. Hence, the learned Judge cancelled the bail order.

4. Mr. Ashish Baraskar, learned counsel for the Applicant states that after the order of bail, the family of the first informant approached the first informant for settlement. They made several calls to the Applicant and in fact instigated the Applicant to violate the bail conditions. He admits that the Applicant had travelled abroad without prior

permission of the Court.

5. Mr. M.G. Patil, learned APP for the State submits that the Applicant had made several calls to the first informant. He has been threatening her by sending messages and e-mails and this is in clear breach of conditions imposed by this Court. Learned APP also states that breach of the terms and conditions is one of the grounds for cancellation of bail.

6. Before advertng to the facts, it would be relevant to refer to the decision of the Apex Court in ***Myakala Dharmarajam and ors. v/s. The State of Telangana and anr. (2020) 2 SCC 743***, wherein it has been held thus :-

“ 7. In Raghubir Singh v. State of Bihar this Court held that bail can be cancelled where (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation, (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation, (v) there is likelihood of his fleeing to another country, (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency, (vii) attempts to place himself beyond the reach of his surety, etc. The above grounds are illustrative and not exhaustive. It must also be remembered

that rejection of bail stands on one footing but cancellation of bail is a harsh order because it interferes with the liberty of the individual and hence it must not be lightly resorted to.

8. It is trite law that cancellation of bail can be done in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant material indicating prima facie involvement of the accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in canceling the bail. ”

7. In the instant case, the bail is cancelled for breach of conditions in bail order. The first informant has placed on record CD of call recordings, extract of messages and e-mails received from the Applicant. A perusal of these records indicate that the Applicant has made several threatening calls to the first informant after grant of Anticipatory Bail. The messages and e-mails sent by the Applicant to the first informant reveal that the Applicant has been continuously threatening the complainant that he would lodge extortion case against her and that he would also implicate the police in extortion case. The Applicant has not disputed having sent such messages and mails or having made calls. The Applicant sought to justify such act by stating

that he was instigated to breach the conditions. Such justification needs outright rejection.

8. Furthermore, learned counsel for the Applicant has admitted that the Applicant has travelled abroad without permission of the Court. As observed by the Trial Court, the Applicant was not prevented from travelling abroad. The only condition was to seek permission of the Court prior to such travel and this was with an object of imposing more stringent conditions and seeking additional security so as to ensure his attendance before the Court. The Applicant has chosen not to seek such permission. No explanation is given by the learned counsel for the Applicant for not seeking such permission. The conduct of the Applicant shows that he has scant respect for the Rule of law. He has misused the liberty granted to him and by threatening the complainant, he has attempted to interfere with due course of administration of justice. Under the circumstances, learned Judge was justified in cancelling the bail. No case is made out to interfere with the order. Hence, the Anticipatory Bail Application is dismissed. The Applicant to surrender within a period of one week.

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JAYANI

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(SMT. ANUJA PRABHUDESSAI, J.)