

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Criminal Application (APPLN) No. 13 of 2022

Geeta Arunkumar Kokas

Versus

State of Maharashtra, through Police Station Officer, Police Station Ajni,
Nagpur City, Nagpur and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri D.V.Mahajan Advocate for the applicant.

Shri S.D.Sirpurkar, APP for the State / non-applicant

Shri Kanak Mandpe, advocate for the non-applicant
no.2.

CORAM : ANIL S. KILOR, J.

DATED : 4th JULY, 2022.

This is an application for cancellation of bail
granted to the non-applicant no.2 on a ground of breach
of condition.

2. Shri Mahajan, learned counsel for the
applicant submits that while granting bail by the learned
trial Court vide order dated 2nd January, 2021, a specific
condition was imposed vide condition no.3 i.e. accused/
non-applicant no.2 shall not contact informant and
other prosecution witnesses in any manner and shall not
tamper with the prosecution evidence.

3. It is pointed out that despite this condition the non-applicant no.2 used to send messages to the applicant and thereby he breached the condition no.3 of the order granting bail to the non-applicant no.2. Accordingly, he prays for cancellation of bail.

4. Learned Additional Public Prosecutor fairly states that the State has not moved any application for cancellation of bail in this case.

5. Shri Mandpe, learned advocate for the non-applicant no.2 submits that as the non-applicant no.2 was worried about his minor daughter, he tried to contact the applicant who is the wife of the non-applicant no.2, to know the well being of his daughter. However, there was no intention of the applicant to breach the condition.

6. Shri Mandpe, learned counsel for the non-applicant no.2 states that his client has given written undertaking on affidavit that he will abide said condition and for any reason he will not contact the applicant. He submits that looking to the relations of non-applicant no.2 and applicant as husband and wife, this Court may take a liberal view and give one more opportunity to the non-applicant no.2.

7. I have perused the application and documents filed alongwith application.

8. The Whatsapp messages sent by the non-applicant no.2 to the applicant clearly demonstrate that applicant has breached the condition. However, the explanation of the applicant is that his intention was to know about well being of daughter and no more than that, though, some of the messages do not show the said intention of the applicant.

9. Be that as it may, considering the relation of the applicant and non-applicant no.2 and the undertaking which is given to this Court which read thus:

“That, I undertakes to abide by each and every condition imposed by this Hon’ble Court. I undertakes not to contact with informant Geeta Arunkumar Kokas or any prosecution witness by any mode, personally I undertakes not to call her on mobile or not send any message on whatsapp nor will try to contact with any third person. I also undertakes not to tamper with prosecution witness except attending the Family Court at Nagpur where petition no. A-227/2021 is pending.

I undertakes if there is any breach of undertaking the prosecution and the complainant will be at liberty to file an application for cancellation of bail granted by Additional Sessions Judge, Nagpur in Misc. Criminal Application No. 3709/2020.”

10. In view of the above said undertaking, I am of the opinion that non-applicant no.2 shall be given

one more opportunity. Accordingly, I pass the following order.

ORDER

- i. Criminal application is disposed of.
- ii. The undertaking given by the non-applicant no.2 is accepted.
- iii. In case of breach of any condition of undertaking in any manner by the non-applicant no.2, the applicant is at liberty to apply for cancellation of bail.

[ANIL S. KILOR, J.]

SACHINDANAND
K NAIR

Digitally signed
by
SACHINDANAND
K NAIR
Date: 2022.07.05
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