

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

CRIMINAL APPLICATION (BA) NO.50 OF 2022

Shubham @ Pawan Gautam Waghmare

Vs.

State of Maharashtra Through P.S.O. Akot File and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. D. S. Khushalani, Advocate h/f Mr. P. A. Kadu, Advocate for applicant.
Mr. S. M. Ghodeswar, APP for non-applicant no.1/State.

CORAM : AVINASH G. GHAROTE, J.
DATE : 14/02/2022

Heard Mr. D. S. Khushalani, learned counsel holding for Mr. Kadu, learned counsel for the applicant and Mr. Ghodeswar, learned APP for non-applicant no.1/State.

2. The application challenges the order of cancellation of bail dated 27.01.2021, on account of non-compliance of the condition. It is contended that by an order dated 08.02.2017, the applicant was released on bail on the condition that he shall attend P.S. Akol File, Akola as and when required and co-operate with the Investigating Officer till filing of the charge-sheet. The charge-sheet has been filed on 23.07.2018. Thereafter, since the applicant was absent, the learned Trial Court by an order dated 24.09.2020 issued a warrant against him for his production in pursuance to which the applicant was produced before the learned Trial Court on

27.01.2021 and thereafter by an order dated 29.01.2021 (page 76), was released on fresh bail. It appears that thereafter also since the applicant was not present, a non-bailable warrant was issued against him on 09.04.2021 and the applicant was produced before the Trial Court on 17.06.2021 when the application for cancellation of non-bailable warrant came to be rejected by the order dated 17.06.2021 and the applicant was taken into magisterial custody remand (MCR) till 29.06.2021 with liberty to furnish fresh bail application. On 21.06.2021, the applicant was directed to be released on bail, however, since the bail papers had not been filed, the matter was adjourned to the fixed date. Thereafter, another application came to be filed on 29.10.2021 for cancellation of the non-bailable warrant, issued on 27.10.2021, which came to be rejected by an order dated 29.10.2021. Further application for bail dated 30.10.2021 (page 86) came to be rejected (page 88). Another application for bail dated 25.11.2021 also came to be rejected by an order of the same date (page 91).

3. It is material to note that the above position, had occurred during the Covid – 19 pandemic, in which, for considerable period of time, due to the orders of lock-down, movements were prohibited, considering which, since the applicant in his application at ground no.(c), has given an undertaking of regularly attending the pending trial, as well as the separate undertaking dated 09.02.2022, which is taken on record and marked as 'X' for the purpose of identification, the applicant be

released on bail on his furnishing PR bond of Rs.25,000/- (Rs. Twenty Five Thousand) and one surety of like amount.

4. It is made clear that any further non-appearance in the pending trial, would result in cancellation of bail.

5. The criminal application is allowed, in the above terms.

JUDGE

Sarkate