

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

CRIMINAL APPLICATION (APPLN) NO.35 OF 2022

State of Maharashtra, through P.S.O., P.S. Achalpur, Dist. Amravati

Versus

Kedar Ghanshyam Charpate

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

Court's or Judge's Order

Shri V.A. Thakare, A.P.P. for the applicant/State.

Shri K.R. Trivedi, Advocate for the non-applicant.

CORAM : ANIL S. KILOR, J.

DATED : 12/07/2022

1. This is an application for cancellation of bail granted to the non-applicant vide order dated 27.04.2021 passed by this Court in Criminal Application (BA) No.1318 of 2020, on the ground that the applicant has misused the liberty.

2. Shri V.A. Thakare, learned APP has pointed out that the non-applicant was released on bail vide order dated 27.04.2021 and after he was released on bail, he has committed serious offence on 06.01.2022. Accordingly, Crime No.07 of 2022, dated 06.01.2022 was registered with the Police Station Samraspura, Dist. Amravati (Rural) for the offences punishable under Sections 324, 326, 294, 269, 143, 147, 148, 149 and 188 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, 1951. Thus, he submits that the applicant has misused the liberty.

3. It is pointed out that as there are supervening circumstances, this Court may cancel the bail granted to the non-applicant.

4. Learned APP further points out that though, this Court directed to attend the Police Station twice a month i.e. on 1st Saturday and 3rd Monday of every month, he did not attend the Police Station after July, 2021. Accordingly, he submits that there is also a breach of condition of the order dated 27.04.2021. Accordingly, he prays for cancellation of bail granted to the non-applicant.

5. Shri Trivedi, learned counsel for the non-applicant submits that a false case has been lodged against the non-applicant and other accused persons. He tried to point out that the non-applicant is no way connected with the said offence, however, under the pressure of the Police, the complainant has signed the complaint.

6. For this purpose, he points out a pursis filed by the complainant before the trial Court saying that the Police had pressurized him to sign the complaint, though no such incident had ever occurred. This pursis is dated 27.06.2022.

7. In reply the learned APP submits that from the pursis it is evident that the accused persons are pressurizing the complainant and under pressure, the complainant has filed such pursis.

8. The learned counsel for the non-applicant further argues that he has attended the Police Station regularly, however, the Police refused to acknowledge his attendance by putting signature in his attendance diary. He submits that the Police have done this with an intention to create a ground for cancellation of bail, granted to the non-applicant. Accordingly, he prays for rejection of the present application.

9. I have perused the application, and the reply of the State.

10. From the record, it appears that on 27.04.2021, this Court while considering the bail application of the present non-applicant, vide Criminal Application (BA) No.1318 of 2020, has granted conditional bail to the non-applicant in Crime No.146 of 2018 for the offences punishable under Sections 302, 307, 341, 353, 427, 504 and 506 read with Section 34 of the Indian Penal Code.

11. The non-applicant was thereby, directed to attend the concerned Police Station twice a month i.e. on 1st Saturday and 3rd Monday of every month, till the trial is culminated.

12. Subsequent to this, a Crime No.07 of 2022 was registered on 06.01.2022 for the offences punishable

under Sections 324, 326, 294, 269, 143, 147, 148, 149 and 188 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, which shows that after the non-applicant was released on bail, he committed another crime.

13. The charge-sheet of the said crime is on record which *prima facie* shows that the non-applicant was present at the spot and at the time of alleged incident. The charge-sheet further shows that the recovery was made at the instance of the applicant under Section 27 of the Indian Evidence Act. Thus, considering the *prima facie*, incriminating material against the non-applicant in the Crime No.07 of 2022, it can safely be held that the non-applicant has misused the liberty.

14. As far as the attendance of Police Station is concerned, there is a dispute. According to the non-applicant, he has attended the Police Station but the Police Officer did not sign the attendance diary. Therefore, an affidavit came to be filed by the non-applicant, saying that his presence can be verified from the CCTV footage. The non-applicant claims that he attended the Police Station on 03.07.2021, 19.07.2021, 07.08.2021, 16.08.2021, 04.09.2021, 20.09.2021, 02.10.2021, 18.10.2021, 06.11.2021, 15.11.2021, 04.12.2021, 20.12.2021 and 01.01.2022, and he has also produced the diary showing that from 17.05.2021 i.e. after released on bail on three

occasions, he attended the Police Station. Thus, at this stage, I do not think it fit to go into the said controversy or dispute.

15. However, considering the fact that the non-applicant has misused the liberty and abused the concession, I pass the following order:

- a) The criminal application is **allowed**.
- b) The bail granted to the non-applicant vide order dated 27.04.2022 in Criminal Application (BA) No.1318 of 2020 is hereby cancelled.
- c) Bail bonds are cancelled.

The criminal application is **disposed of**, accordingly.

[ANIL S. KILOR, J.]