

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

Criminal Application (APPLN) No. 32 of 2022

Shubham S/o Sunil Patil

Versus

State of Maharashtra, through its Police Station Officer, Police Station
Rana Pratap Nagar, 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 S.K.Patil, Advocate for the applicant.

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

Shri S.R.Dube, Advocate for the non-applicant no.2.

CORAM : ANIL S. KILOR, J.

DATED : 20th APRIL, 2022.

This is an application for cancellation of bail. The only ground raised by the applicant is that Court has observed that there are simple injuries while granting bail whereas the injuries are stab injuries.

2. I have heard learned counsel for the respective parties.

3. Shri Patil, learned counsel for the applicant has taken this Court through the discharge summary at page no.32 of the paper book, there is of mention one

incised wound, two stab wounds and two abrasions. By showing this document, he submits that the injuries are serious and therefore findings recorded by the learned trial Court that the injuries are simple is contrary to record and therefore according to him on irrelevant consideration the bail was granted. He further submits that there is criminal antecedents to the discredit of the accused which would not taken into consideration by the learned Sessions Court while granting bail.

4. On the other hand, Shri Sirpurkar, learned Additional Public Prosecutor fairly states that that State has not moved any application for cancellation of bail. There are no supervening circumstances in this case.

5. Shri Dubey, learned counsel for the non-applicant no.2 strongly opposed the application and submits that applicant has suppressed the material document i.e. injury report dated 16th January, 2022 wherein there is mention that all injuries are simple in nature. He therefore submits that learned Sessions Court has not committed any error or perversity in granting bail and therefore, he, submits that no perversity is there for cancellation of bail.

6. To consider the rival contentions of the parties, I have perused the record and the findings recorded by the learned trial Court.

7. At this juncture, it is relevant to refer to paragraph 4 of the order granting bail to the non-applicant no.2, which read thus:

“4. The weapon of the offence came to be seized. It is informed that today, the charge-sheet is filed. Thus, the investigation is completed. The further custody of the applicant is not required for investigation or interrogation. The injury inflicted by the applicant appears to be simple. The injured is not in the hospital and it is not the case that his condition is not stable. The learned APP pointed out that the applicant is involved in similar type of offence registered with Sonegaon Police Station. The criminal antecedents cannot be the sole ground to curtail the liberty of the applicant when otherwise he has made out the case for bail. As pointed above, since the investigation is completed, the further incarceration of the applicant is not required. Thus, considering the nature of offence, role attributed to the applicant and the fact that the instigation is completed, the applicant has made out the case for bail.....”

8. The injury certificate alongwith reply filed by the respondent no.2 dated 20th April, 2022 shows that all the examined injuries are simple. Thus, from the injury report filed along with reply, which is not

disputed by the applicant, I have found that no perversity has been committed by the learned Sessions Court by observing that the injuries are simple. Moreover, that was not the only ground while granting bail, there were other grounds which weighed with the Sessions Court while granting bail to the respondent no.2 and one of the said grounds was that the investigation was completed and custody of the respondent no.2 is not required. As far as the criminal antecedents is concerned, the Court has also rightly observed that it cannot be relevant factor for curtailing the liberty of the respondent no.2, particularly when the case is made out for grant of bail.

9. The Hon'ble Supreme Court of India in the case of **Puran Vs. Rambilas and another**¹ has observed thus:

“10. Mr. Lalit next submitted that once bail has been granted it should not be cancelled unless there is evidence that the conditions of bail are being infringed. In support of this submission he relies upon the authority in the case of Dolat Ram vs. State of Haryana. In this case it has been held that rejection of bail in a non-bailable case at the initial stage and the cancellation of bail already granted have to be considered and dealt with on different basis. It has been held that very cogent and overwhelming circumstances are necessary for an order directing the

1 (2001) 6 SCC 338

cancellation of the bail already granted. It has been held that generally speaking the grounds for cancellation of bail broadly are interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. It is, however, to be noted that this Court has clarified that these instances are merely illustrative and not exhaustive. One such ground for cancellation of bail would be where ignoring material and evidence on record a perverse order granting bail is passed in a heinous crime of this nature and that too without giving any reasons. Such an order would be against principles of law. Interest of justice would also require that such a perverse order be set aside and bail be cancelled. It must be remembered that such offences are on the rise and have a very serious impact on the Society. Therefore, an arbitrary and wrong exercise of discretion by the trial court has to be corrected.”

10. In the teeth of the above referred observations, as far as the ground raised in the present application for cancellation of bail, is concern, I am of the opinion that no case is made out for cancellation of bail. Accordingly, I pass the following order.

ORDER

- i. Criminal application is rejected.

[ANIL S. KILOR, J.]

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