

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

Criminal Application (Appln.) No.36/2022

Rameshchandra Wankhede V State of Maharashtra ad others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri R.L. Kadu, Advocate for applicant.

Shri P.S. Wathore, advocate for non-applicant nos. 2 to 10.

Shri S.D. Sirpurkar, APP for non-applicant no.1.

CORAM : ANIL S. KILOR, J.

DATE : 25-07-2022

This is an application filed by the applicant under Section 439(2) of the Code of Criminal Procedure for cancellation of bail granted to the non-applicant nos. 2 to 10 in Crime No. 19 of 2022 registered with P.S. Jaulka, District Washim for the offences punishable under Sections 325, 324, 395, 504 and 506 of the Indian Penal Code.

2. The learned Counsel for the applicant submits that while granting anticipatory bail to the non-applicant nos. 2 to 10, the learned trial Court has not given reasons and on irrelevant consideration the bail was granted. He submits that as the order is perverse and granted on irrelevant consideration, this Court may cancel the anticipatory bail granted to the non-applicant nos. 2 to 10.

3. The learned APP supports the case of the applicant.
4. Shri Wathore, learned Counsel appearing for non-applicant nos. 2 to 10, opposes the present application. He submits that out of political rivalry a false FIR came to be lodged and when the Police did not take cognizance of the same, the proceeding was filed before the Judicial Magistrate First Class (JMFC) and as per the directions of learned JMFC the offence came to be registered against the non-applicant nos. 2 to 10.
5. I have perused the application, FIR and the reply of the State.
6. The allegations made in the FIR shows that on the fateful date the complainant who is the member of the Gram Panchayat was present at the time of removal of encroachment made by the non-applicant nos. 2 to 10. At that time, there was exchanged of hot words and the alleged incident is the out come of the same.
7. It is alleged that after the said incident the non-applicant nos. 2 to 10 assaulted the complainant and removed the golden chain. Accordingly, a complaint was lodged on 08-11-2021 i.e after two days of the alleged incident.
8. Thereafter, when the Police did not take cognizance of

the said complaint on 01-01-2022 a proceeding was filed before the JMFC under Section 156(3) of the Cr.P.C. Thereupon, the learned JMFC, Malegaon, vide order dated 20-01-2022 directed the concerned Police to register the FIR and investigated the matter. On such directions, on 25-01-2022 the FIR came to be lodged.

9. Even after the date of incident, as stated by the complainant i.e. on 06-11-2021, no immediate report was lodged to the Police.

10. However, it was lodged on 08-11-2021 at 19.18 hours. It is the submission of learned Counsel for the applicant that because the applicant was injured no offence was immediately lodged. Considering the status of the applicant who is a member of the Gram Panchayat and further considering the nature of allegations made in the FIR, the matter ought to have been reported immediately to the Police. However, there is a delay in lodgment of the FIR.

11. Moreover, considering the allegations made in the FIR it appears that the incident took place during the removal of encroachment and there are no allegations in the FIR that the assault was with intention to take away the golden chain of the complainant.

12. In the above referred backdrop, if the order of the trial Court is considered granting anticipatory bail, it can be seen that, the ultimate conclusion of the trial Court granting anticipatory bail is sustainable in the eyes of law, though some findings are not properly recorded.

13. In that view of the matter, it cannot be said that the anticipatory bail was granted to the non-applicant nos. 2 to 10 on irrelevant consideration or the order is perverse. Hence, I pass the following order :

ORDER

Application is rejected.

(Anil S. Kilor, J.)