

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

Criminal Application [APPLN] No.46 of 2021

State of Maharashtra, through PSO Nandura, District Buldhana

vs.

Navneet Manohar Jadhav

with

Criminal Application [APPLN] No.47 of 2021

Pallavi w/o Navneet Jadhav

vs.

State of Maharashtra, through PSO Nandura, District Buldhana & another

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

Court's or Judge's Orders

*Mr. M.J. Khan, A.P.P. for Applicant/State in Cri.Application No.46/2021
and for Respondent No.1/State in Cri.Application No.47/2021.*

Mr. M.L. Vairagade, Advocate for Applicant in Cri.Application No.47/2021.

*Mr. A.R. Fule, Advocate for the Respondent Sole in Cri.Application
No.46/2021 and for Respondent No.2 in Cri.Application No.47/2021.*

CORAM : SURENDRA P. TAVADE, J.

DATE : 27th JANUARY, 2022.

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

02] Both these applications are filed by the learned A.P.P. for the State and the original complainant respectively for cancellation of pre-arrest bail granted in favour of the respondent/accused. It is contended that the wife of the accused has filed complaint against him for the offence punishable under Sections 498-A, 377, 323, 504 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act. The accused moved an application for pre-

arrest bail bearing Criminal Application [ABA] No.756/2020. This Court granted pre-arrest bail to the accused with condition to attend Police Station Nandura as and when required by the Investigating Officer for extending his cooperation during the investigation. It is contended that from time to time, the accused was called by the Investigating Officer of Police Station Nandura for the purpose of investigation, but the accused failed to appear before the Investigating Office and, accordingly, Station Diary entries were made to that effect. It is contended that the accused did not attend the investigation and did not cooperate with the Investigating Officer. Therefore, the accused deliberately flouted the condition imposed upon him by this Court while releasing him on pre-arrest bail. Therefore, it is prayed that the pre-arrest bail granted to the accused be cancelled.

03] The notices of these applications were issued to the accused. He appeared and filed his reply. It is contended that this Court vide its order dated 14/12/2020 granted interim pre-arrest bail with direction to attend Police Station Nandura on 16th & 17th December, 2020 between 10:00 am and 02:00 pm and shall cooperate with the Investigating Officer. Accordingly, the accused attended the Police Station and cooperated with the Investigating Officer. It is admitted that on 21/12/2020, this Court has confirmed the interim protection granted in favour of the accused with direction to attend the concerned Police Station, as and when required by the Investigating Officer. It is contended that the accused had attended the Police Station on 29/12/2020,

30/12/2020, 10/01/2021 and 17/01/2021. It is contended that when the accused was travelling from Mumbai to Buldhana, he lost his mobile and bag and, therefore, he lodged report at Kalyan Railway Police Station. It is also contended that the accused informed the Investigating Officer that he lost his mobile and he purchased new mobile with new number. It is contended that the accused has informed the Investigating Officer that due to lockdown in the Buldhana, he was unable to attend the Police Station. It is contended that the accused earlier attended the Police Station on 05/05/2021. It is contended that the Investigating Officer has refused to sign the attendance diary. It is contended that the Investigating Officer has issued intimation letter to the accused for attending the Police Station. It is contended that the accused is working as Deputy Chief Security Officer at K.E.M. Hospital, Mumbai and due to Covid-19 pandemic, he was on emergency duty, therefore, it was very difficult for him to leave Mumbai to attend the Police Station. It is contended that the accused has not flouted any condition imposed upon him by this Court. It is, therefore, prayed that the applications be rejected.

04] Heard the learned A.P.P. for the State, learned Counsel for the complainant and the learned Counsel for the respondent/accused.

05] The learned A.P.P. has taken me through the documents produced on record at Annexure A-II to A-VI. All the said documents are the extract of Station Diary, which

show that the Investigating Officer had called the accused to attend the Police Station on 02/01/2021, 13/01/2021, 17/01/2021, 17/02/2021 and 06/06/2021. In spite of directions of the Investigating Officer, the accused remained absent.

06] On perusal of reply of the accused, it appears that he has given some dates when he attended the Police Station viz. 29/12/2020, 30/12/2020, 10/01/2021 and 17/01/2021. But, it appears that the accused has not produced on record any document showing his presence at Nandura to attend the Police Station. On the other hand, the annexures produced on record by the learned A.P.P. show that there are specific entries made in the Station Diary, whereby the accused was called in the Police Station, but he did not attend. It is the case of the accused that he was never called by the Investigating Officer on the dates mentioned in Annexure A-II to Annexure A-VI. I am not inclined to accept the said submission, because the Station Diary entries produced on record show that the accused was called on his phone, but he did not attend the Police Station. So, it can be said that the accused has flouted the order passed on 21/12/2020.

07] It is an admitted fact that the charge-sheet is not filed against the accused. The learned Counsel for the accused submitted that due to pandemic, he could not attend the Police Station as directed by this Court, but now he is ready to attend the Police Station and also ready to cooperate with the Police. On the other hand, the learned

Counsel for the complainant submits that once the breach has committed, there is no option but to cancel the bail. It appears that the statement of witnesses are recorded and the investigation is almost completed. The Investigating Officer requires presence of the accused for recovery of mobile phone for which the accused contends that he lost his mobile during travel, but he is required to convince the Investigating Officer on that point. Therefore, his presence is required.

08] Looking to the nature of the offence, it would not be just and reasonable to cancel the bail granted to the accused, but at the same time the investigation is required to be completed for which the presence of the accused is required. If the accused is put to the condition to attend the Police Station, then the purpose of the Investigating Officer would be served. Hence, I pass the following order:

ORDER

- i. The applications are rejected.
- ii. The accused is directed to attend the Police Station Nandura every day between 10:00 am and 12:00 pm from 29th January, 2022 to 6th February, 2022.

JUDGE

**sandesh*