

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

CRIMINAL APPLICATION (APPLN) NO.74 OF 2022

(STATE OF MAH. THR. PSO PS KAPIL NAGAR, NAGPUR .VS.. MOHD. SAMEER SAGIR AHAMAD
PATHAN, NAGPUR)

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

Court's or Judge's orders

Shri A.R.Chutke, A.P.P. for Applicant/State.
None for the Non-applicant.

CORAM : ANIL S. KILOR, J.
DATED : SEPTEMBER 14, 2022.

1. This is an application moved by the State under Section 439(2) of the Code of Criminal Procedure for cancellation of bail granted to the non-applicant by this Court vide order dated 02/07/2021 in Criminal Application (BA) No. 262 of 2021, on the ground of breach of condition as well as misuse of liberty.

2. I have heard the learned A.P.P. for the State. None for the non-applicant, though served.

3. Shri Chutke, learned A.P.P. submits that while granting bail vide order dated 02/07/2021, a specific condition was imposed vide clause (d) of the operative part of the order that the non-applicant shall not enter into the territorial limits of the Nagpur Municipal Corporation, till conclusion of the trial.

4. It is submitted that the non-applicant not only entered into the territorial jurisdiction of the Nagpur Municipal Corporation in breach of the said condition, but, he misused the liberty by committing further offences. He accordingly drawn attention of this Court to a Crime Chart to show the offences committed by the non-applicant within and outside the territorial limits of the Nagpur Municipal Corporation. He, therefore, submits that as the non-applicant has breached the condition and also abused the concession, this Court may cancel the bail.

5. I have perused the application and the documents filed along with the same.

6. The order dated 02/07/2021 granting bail to the non-applicant shows that vide clause (d) of the operative part of the order, this Court had specifically imposed the condition that the non-applicant shall not enter into the territorial limits of the Nagpur Municipal Corporation till conclusion of the trial.

7. From the Crime Chart filed by the State it can be seen that after the non-applicant was released on bail he committed an offence on 27/01/2022 at Jaripatka, Nagpur, four offences on 06/02/2022, 24/02/2022 and 07/06/2022 at Kapil Nagar, Nagpur, and on 08/06/2022 at Pardi, Nagpur, within the territorial limits of Nagpur Municipal Corporation whereas, the applicant has committed offences on 24/05/2022 at Juni Kamptee, and

on 27/05/2022 at Parsheoni, outside the territorial limits of the Corporation.

8. In the above referred backdrop, I have no hesitation to hold that the non-applicant has breached the condition for grant of bail. Further, it is clear from the crime chart that after releasing on bail, the non-applicant has committed as many as eight offences, which further shows that he has abused the concession and misused the liberty.

9. It is a well settled law that in case of overwhelming or supervening circumstances or in case of breach of condition or abuse of concession, the bail granted to the accused shall be cancelled.

10. In view of the above observations and considering the fact that on grant of bail, the non-applicant has committed serious offences, I am of the opinion that the bail granted to the non-applicant needs to be cancelled. Accordingly, I pass the following order :

- i) The application is allowed.
- ii) The bail granted to the non-applicant vide order dated 02/07/2021 is hereby cancelled.

The Criminal Application is **disposed of** accordingly.