

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

Criminal Application (APPLN) No. 80 of 2022

State of Maharashtra, through its Police Station Officer, Yavatmal City
Police Station, District Yavatmal

Versus

Anand @ Banti Dwarkaprasad Jaiswal

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

Court's or Judge's Order

Ms. Kalyani Deshpande, APP for the applicant.
Shri A.S.Manohar, Advocate for the non-applicant.

**CORAM : ANIL S. KILOR, J.
DATED : 6th SEPTEMBER, 2022.**

The present application has been filed by the State for cancellation of bail granted to the non-applicant, by this Court on the ground that non-applicant has misused the liberty.

2. I have heard learned Additional Public Prosecutor and the learned counsel for the non-applicant.

3. Ms. Kalyani Deshpande, learned Additional Public Prosecutor submits that after release of applicant on bail in pursuance to order dated 10th February 2017, three offences were registered against the non-applicant

namely crime no.50 of 2021 registered on 18th January, 2021 with Yavatmal City Police Station, Crime No.685 of 2021 dated 26th August, 2021 registered with Yavatmal City Police Station and Crime No.908 of 2021 registered on 8th September, 2021 with Police Station Awadhootwadi, Yavatmal.

4. It is submitted that it is a settled law that if there are supervening circumstances or breach of any conditions, cancellation of bail can be sought.

5. She, therefore, submits that as three offences were committed by the applicant after he was released on bail in Crime No.573 of 2016 vide order dated 10th February, 2017, this is a clear case of abuse of concession. Accordingly, she prays for cancellation of bail.

6. On the other hand, Shri Adwait Manohar, learned counsel for the non-applicant submits that the present application was filed after more than one and half years after lodgment of first complaint i.e Crime No. 50 of 2021. It is submitted that if the allegations are considered, it would be seen that there are no similarity of offence.

7. It is pointed out that as far as crime no.908/2021 is concerned, it was in relation to the incidents which had taken place on 11th March, 2013

and the offence came to be registered after about eight years.

8. Similarly, he points out from the order granting bail to the applicant by the trial Court in Crime No. 685 of 2021 that no role is attributed to the applicant in the statement of API, Janardhan Khanderao.

9. He further submits that at the relevant time there was a police protection and it is alleged that said offence had taken place in the presence of police. In the circumstances, statement of API Khanderao is significant. He therefore submits that it is an attempt to make out the case of misuse of liberty, the false offences are being registered against the non-applicant.

10. He, therefore, submits that considering the nature of offence registered against the non-applicant to the subsequent bail granted to the non-applicant, this Court may not interfere with the bail granted to the non-applicant. Accordingly, he prays for rejection of the present application.

11. I have perused the application and the documents filed alongwith the application.

12. From the record, it can be seen that on 17th February, 2017, the applicant was released on bail in Crime No.573 of 2016 registered for the offence

punishable under Sections 302, 364, 143, 147, 148, 149 and 120-B of Indian Penal Code and sections 3/25 and 4/25 of the Arms Act.

13. It is alleged that after the non-applicant was released on bail, he committed three offences namely crime nos. 50 of 2021 and 681 of 2021 within the jurisdiction of Yavatmal City Police Station and another offence namely crime no. 908 of 2021 within the jurisdiction of Awadhootwadi Police Station, Yavatmal.

14. The offence i.e. crime no. 908 of 2021 is in relation with the incident took place on 11th March, 2013

15. Further from the order of the trial Court granting bail to the non-applicant in crime no. 685 of 2021, it can be seen that it is alleged that the said offence was committed by the accused while there was police protection. However, the statement of API which is reproduced in the order of trial court granting bail does not attribute any role to the applicant in the said offence.

16. As far as offence i.e. crime no. 50 of 2021 is concerned, it is to be noted that the present application came to be filed after more than one and half years, after lodgment of the said report.

17. Considering the over all material available on record and the allegations made in the above referred three offences and for the reasons stated herein above, it cannot be said that the non-applicant has misused the liberty or abused the concession.

18. In the circumstances, I am of the opinion that no case is made out by the applicant for cancellation of bail. Accordingly, the criminal application is rejected.

[ANIL S. KILOR, J.]

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