

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

Criminal Application No. 96 of 2021

Manoj S/o Gurumukhdas Chabada

Versus

State of Maharashtra, through Police Station Officer, Avdhutwadi, Taluka
and District Yavatmal, Police Station Lohara, Dist. Yavatmal

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

Court's or Judge's Order

Shri Vivek Awchat, Advocate for the applicant.

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

Shri Rohan R.Deo, Advocate for the non-applicant
no.2.

CORAM : ANIL S. KILOR, J.

DATED : 15th MARCH, 2022.

Heard learned counsel for the respective
parties.

2. This is an application for cancellation of bail granted to the non-applicant no.2 by the learned Sessions Court vide order dated 7th October, 2021 under section 438 of the Code of Criminal Procedure in Crime No. 837 of 2021 registered with Awadhutwadi Police station and it is re-numbered as Crime No. 138 of 2021 for the offence punishable under Section 420 of the Indian Penal Code.

3. The bail is sought to be cancelled on the ground that learned Additional Sessions Judge, Yavatmal while granting bail has not considered the severity of offence and on wrong consideration, the application for grant of anticipatory bail was allowed.

4. It is submitted that after the non-applicant no.2 was granted ad-interim protection, his wife threatened the applicant of dire consequences. It is therefore, submitted that the non-applicant no.2 is misusing the liberty. The applicant further submits that under Section 438 of the Code of Criminal Procedure, the learned trial Court ought to have secured the presence of the non-applicant no.2 for the reason that the affidavit was sworn at Pune and application was filed at Yavatmal and without securing his presence, the bail was granted and therefore on this count he is seeking for cancellation of bail.

5. Shri Sirpurkar, learned Additional Public Prosecutor fairly submits that the nature of allegations are civil in nature and the dispute has arisen out of a commercial transaction.

6. Shri Deo, learned counsel for the non-applicant no.2 submits that in this case the condition of securing the presence of the non-applicant no.2 will not

be applicable. Moreover, he submits that while granting bail, the learned Sessions Court has considered the parameters which need to be considered at the time of granting bail and there is no error committed by the learned Sessions Court.

7. It is further submitted that the non-applicant no.2 has not misused the liberty granted to him and the allegations about misuse of liberty made by the applicant are incorrect.

8. After considering the grounds raised in the application for cancellation of bail and considering the permissible grounds for cancellation of bail stated in the case of *Puran Vs. Rambilas and another*¹, I am of the opinion that no ground is made out by the applicant for cancellation of bail granted to the non-applicant no.2. Moreover, there is no error committed by the learned Sessions Judge, while granting bail to the non-applicant no.2.

9. Hence, the application is rejected.

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Date: 2022.03.15
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[ANIL S. KILOR, J.]

1 (2001) 6 SCC 338