

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

CRIMINAL APPLICATION (APPLN.) NO.102 OF 2021

(FIROZ AMIRALI DOSANI....VS.. STATE OF MAH. THR. PSO, P.S.SITABULDI,NAGPUR & ANR.)

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

Court's or Judge's orders

Shri S.S.Sitani, Advocate for Applicant.
Shri Sagar Ashirgade, A.P.P. for Non-applicant No.1/State.
Shri A.A.Gupta, Advocate for Non-applicant No.2 (accused)

CORAM : ANIL S. KILOR, J.
DATED : APRIL 12, 2022.

1. Heard.
2. This is an application for cancellation of anticipatory bail granted by the learned Additional Sessions Judge vide order dated 29/10/2021 in Misc. Criminal Application (ABA) No. 3247 of 2021 arising out of Crime No. 465 of 2021 registered with Police Station, Sitabuldi, Nagpur for the offences punishable under Sections 420, 406, 506 read with Section 34 of the Indian Penal Code on the ground of perversity.
3. The learned counsel for the applicant has pointed out from the order that the findings recorded by the learned Sessions Judge while granting anticipatory bail to the non-applicant No.2, has committed error and hence, there is a perversity in the order. He has drawn attention of this Court to paragraph No.5 of the order to substantiate his argument on perversity.

4. On the other hand, the learned A.P.P. fairly states that the State has not applied for cancellation of bail in this matter. It is further pointed out that there are no supervening circumstances available in this case.

5. Shri Gupta, learned counsel for the non-applicant No.2 opposed the present application and reiterated the arguments advanced by the learned A.P.P. and prays for rejection of the present application.

6. To consider the rival contentions of the parties, I have gone through the record and the order dated 29th October 2021 granting anticipatory bail to the non-applicant No.2.

7. The Hon'ble Supreme Court of India, in the case of *Puran Vs. Rambilas and another*¹ has observed thus:

“10. Mr. Lalit next submitted that once bail has been granted it should not be cancelled unless there is evidence that the conditions of bail are being infringed. In support of this submission he relies upon the authority in the case of Dolat Ram vs. State of Haryana. In this case it has been held that rejection of bail in a non-bailable case at the initial stage and the cancellation of bail already granted have to be considered and dealt with on different basis. It has been held that very cogent and overwhelming circumstances are necessary for

an order directing the cancellation of the bail already granted. It has been held that generally speaking the grounds for cancellation of bail broadly are interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. It is, however, to be noted that this Court has clarified that these instances are merely illustrative and not exhaustive. One such ground for cancellation of bail would be where ignoring material and evidence on record a perverse order granting bail is passed in a heinous crime of this nature and that too without giving any reasons. Such an order would be against principles of law. Interest of justice would also require that such a perverse order be set aside and bail be cancelled. It must be remembered that such offences are on the rise and have a very serious impact on the Society. Therefore, an arbitrary and wrong exercise of discretion by the trial court has to be corrected.”

8. In the teeth of the above referred well settled principles of law, if the reasons recorded by the learned trial Court are considered, though it might not have properly recorded, but ultimate conclusion arrived at is sustainable in the eyes of law, thus, such findings cannot be termed as ‘perverse’.

9. Looking to the fact that there is no perversity in recording the findings, coupled with the fact that there are no supervening circumstances available in the present case, I am of the opinion that the present application needs to

be rejected as no ground for cancellation of bail is made out by the applicant. Accordingly, I pass the following order :

The application is **rejected**. .

JUDGE

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