

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

CRIMINAL APPLICATION (APPLN) NO.4 OF 2022

Sachin Ravishankar Mahajan

Versus

State of Maharashtra, through P.S.O., P.S. Washim (Rural), Tq. & Dist. Washim and others

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

Court's or Judge's Order

Shri R.S. Kurekar, Advocate for the applicant.

Shri V.A. Thakare, A.P.P. for the non-applicant No.1/State.

Shri A.M. Ghare, Advocate for the non-applicant Nos.2 to 4.

CORAM : ANIL S. KILOR, J.

DATED : 04/04/2022

1. This is an application for cancellation of bail filed under Section 439(2) of the Code of Criminal Procedure in Crime No.334 of 2021, dated 23.09.2021, registered against the non-applicant Nos.2 to 4 with Police Station Washim (Gramin), District Washim for the offence punishable under Sections 306 and 34 of the Indian Penal Code.

2. The allegations in the First Information Report (FIR) were that for beautification of Basveshwar Vachan Stambha and Square, member of parliament had sanctioned Rs.3,00,000/-. In pursuance to same the deceased made an application to the Municipal Council for grant of land and because the land was not made available by the Municipal Council, the deceased held the accused responsible for the same and committed suicide.

3. Heard learned counsel for the respective parties.

4. Shri Kurekar, learned counsel for the applicant submits that the applicant is seeking cancellation of bail on merit as the bail was granted on wrong considerations.

5. Shri Thakare, learned APP fairly states that there is no supervening circumstances in this case.

6. Shri Ghare, learned counsel for the non-applicant Nos.2 to 4 submits that no ground is available in the application for cancellation of bail. It is submitted that the suicide note was taken into consideration by the learned trial Court and thereupon, the bail was granted to the non-applicant Nos.2 to 4. He therefore, prays for rejection of the present application.

7. I have perused the record and also the Case Diary.

8. The Hon'ble Supreme Court of India in the case of *Puran vs. Rambilas*¹, the Hon'ble Supreme Court of India has considered the permissible grounds for cancellation of bail in Para-10 of the said judgment, which reads 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 & Ors. vs. State of Haryana reported in 1995 (1) S.C.C. 349. 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

¹ (2001) 6 SCC 338

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.”

9. In the teeth of above referred well settled principles of law, I revert back to the facts of the present case.

10. The learned counsel for the applicant is not coming with a case that there are supervening circumstances in this case or breach of any conditions by the non-applicant Nos.2 to 4.

11. As far as for perversity is concerned, the learned trial Court while granting bail has considered the suicide note and also the other circumstances. The relevant paras of the judgment which reads thus:

“8. I have gone through xerox copy of suicide note. Presently, there is no opinion of handwriting expert available on record regarding author of the suicide note, since according to the replies, expert opinion is awaited, even if the entire statements made in the suicide note in so far present applicants are

concerned are taken as true, it only shows non-cooperation by them for decoration of chowk and fixation of Jagat Jyoti Mahtama Basveshwar Vachan Stambha by giving evasive answers to him and by giving insulting treatment to him.

“9. The law in so far as offence under Section 306 of the Indian Penal Code is well crystallized. Since this Court is not expected to make any comment on merit of the prosecution case, vis-a-vis Section 306 of the Indian Penal Code is concerned, at the same time there is nothing in the investigation papers for claiming custodial presence of the present appellants. Bail is Rule, Jail is exception. Pretrial detention should not be pretrial sentence. Nothing is needs to be seized from the applicants. The apprehension, on the part of learned Additional Public Prosecutor for the State and learned counsel for original complainant that applicants are likely to pressurize the prosecution witness, can be taken care of by imposing stringent conditions on them. In view of fact that the prosecution could not point out any cogent ground for the applicants/accused Nos.1 to 3's custodial presence.”

12. The conclusion arrived by the learned trial Court is sustainable in the eyes of law and therefore, even if any error is there in recording the findings, it cannot be termed as perversity.

13. Thus, as no ground is made out for cancellation of bail, I am of the opinion that the present application needs to be rejected. Accordingly, I pass the following order:

The criminal application is **rejected**.

[ANIL S. KILOR, J.]