

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO.14 OF 2023
IN BA/661/2022

Sunil Anna Dhage,
Age 31 years, Occu. Painter,
R/o. Ramabai Ambedkar nagar,
At present Aurangabad,
Taluka and District Aurangabad .. Applicant

Versus

1. State of Maharashtra
2. Police Inspector,
CIDCO, Police Station, Aurangabad,
Taluka and District Aurangabad
3. Police Inspector,
Harsul Police Station, Aurangabad,
Taluka and District Aurangabad
4. Police Inspector,
M.I.D.C. Police station, Aurangabad,
Taluka and District Aurangabad
5. Commissioner of Police,
Aurangabad
6. Anil @ Villain Shivaji Gadve,
Age 27 years, Occu. Service, .. (Deleted)
7. Vishal Sukhdeo Bankar,
Age 28 years, Occu. Service,
Both Resp.No.6 and 7 r/o. ST Colony,
Mukundwadi, CIDCO, Aurangabad,
Taluka and District Aurangabad .. Respondents

Mr. Naseem R. Shaikh, Advocate for Applicant;
Mr. S. P. Deshmukh, APP for Respondents No.1 to 5/State;
As per order dated 27.01.2023, Respondent No.6 is deleted;
Mr. C. C. Deshpande, Advocate for Respondent No.7

CORAM : S. G. MEHARE, J.

DATE : 24-04-2023

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for respondents No.1 to 5/State and the learned counsel for respondent No.7.

2. The applicant is seeking cancellation of bail order dated 25.07.2022 passed by this court (Coram : R. G. Avchat, J.) in Bail Applications No. 661 and 659 of 2022, in respect of C.R.No.I-725 of 2021 registered with CIDCO Station, Aurangabad, Taluka and District Aurangabad, for the offences punishable under Section 307 read with Section 34 of the Indian Penal Code, on the grounds that the gravity of the offence has not been considered by this Court while granting bail and the accused violated the condition 'not to enter Taluka Aurangabad for a period of six months, except for attending this case'.

3. Respondent No.7/Accused Vishal Bankar entered Aurangabad on 01.10.2022 and he then entered on 14.11.2022. To prove the violation of the condition, the applicant has no other evidence except the NCR against Respondent No.7/accused Vishal Bankar.

4. The learned counsel for the accused would argue that the non-cognizable cases were filed with *mala fide* intention to create a ground for cancellation of bail. Now, around seven witnesses have been examined. The accused did not enter Aurangabad except for trial. Now, it is a fashion to file NCs, where the bail condition was imposed not to enter a particular place. In fact, the complainant was aggrieved by the order of this Court granting bail. The applicant cannot seek cancellation on the ground that the offence was grievous and that has not been considered by this Court. Hence, the application may be dismissed.

5. First ground that the offence was grievous, hence, the bail was incorrectly granted by this Court, would not sustain as it would amount to review.

6. As far as second ground of violation of condition is concerned, except the NCR, the applicant has no other evidence. The possibility of filing NCR to create ground cannot be ruled out. Except the allegation there is no other reliable material. Therefore, it is difficult to accept the allegation that the accused has violated bail condition imposed by this Court. For these reasons, the application stands dismissed.

(S. G. MEHARE, J.)