IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
APPLICATION FOR CANCELLATION OF BAIL NO. 13 OF 2023

Bhausaheb s/o Shankarrao Zinjurde — Applicant

Versus

The State of Maharashtra & others — Respondents

Mr. D. R. Shelke, Advocate for the applicant.
Mr. V. S. Badakh, APP for the State.
Mr. D. R. Deshmukh, Advocate for respondents No. 3 to 5.

CORAM : R. M. JOSHI, J.
DATE : 21st JUNE, 2023.

PER COURT :

1. This application is for cancellation of bail granted by learned Sessions Court in Anticipatory Bail Application No. 397/2022 in respect of Crime No. 270/2022 registered with Veergaon Police Station, Tq. Vaijapur, Dist. Aurangabad for offences punishable under Sections 420, 406, 468, 471 of Indian Penal Code.

2. Learned counsel for applicant states that the learned Sessions Court has failed to consider relevant facts of the case and the impugned order has been passed on the facts irrelevant for its decision. Grievance is also made that the learned Sessions Court has gone into the merits of the case and observations are made to

that effect. In order to support his contentions, he drew attention of this Court to the dispute filed by Co-operative Credit Society against the informant and his relatives wherein it is alleged that they had obtained loan from the Credit Society and did not repay the same. It is contended that there is averment in the said dispute about mortgages being executed by informant's relatives while obtaining loan. It is contended that the said statement is false as the mortgage which was executed in the year 2012 pertains to the previous loan transaction of the year 2010 and said loan as been repaid.

3. This Court learned counsel for the applicant to point out as to whether any written statement is filed placing the said fact on record. Though he drew attention of this Court to the relevant portion of the written statement, however, there is no specific averment made therein that the loan obtained in the year 2012 by respondent has been repaid. There is also no statement to the effect that the mortgage in question was executed in the year 2012 and has nothing to do with the subsequent loan transaction.

4. Perusal of the impugned order shows that on the basis of statement made by the Investigating Officer that the original

documents are with the Co-operative Society, it is observed that custodial interrogation of the applicant is not necessary. Though it is sought to be argued that there is averment in the application to the effect that the documents concerned are with the bank, the Sessions Court ought not to have passed such order.

5. The scope for cancellation of bail once granted on merit is extremely limited. It needs to be seen as to whether any material evidence who was before the Court has not been considered by the Court for the purpose of granting of bail. Perusal of the entire order shows that the learned Sessions Court has rightly gone into the merits of the allegations which were relevant for decision of the said application. Learned counsel for the applicant was unable to show that any extraneous material was considered by the Court or the material on record was ignored while passing the impugned order.

6. Having regard to these facts, no case is made out for cancellation of bail. Application stands dismissed.

(R. M. JOSHI)
Judge

dyb