

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO.19 OF 2023

Baburao s/o. Ananda Pawar,
Age 50 years, Occu. Auditor,
Devgiri Nagari Sahakari Path
Sanstha Maryadit, Aurangabad
R/o. Jadhavwadi, Aurangabad

.. Applicant

Versus

1. The State of Maharashtra
through Police Inspector,
Phulambri Police Station,
Tal. Phulambri, Dist. Aurangabad

2. Santosh s/o. Prabhakar Gaikwad,
Age 25 years, Occu. Service,
R/o. Babara village, Tal. Phulambri,
District Aurangabad

.. Respondents

Mr. Satish A. Gaikwad, Advocate for Applicant;
Mr. S. P. Deshmukh, A.P.P. for Respondent No.1/State;
Mr. Nilesh S. Ghanekar, Advocate for Respondent No.2

CORAM : S. G. MEHARE, J.

DATE : 19-07-2023

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for respondent No.1/State and the learned counsel for respondent No.2/accused.

2. Applicant is seeking cancellation of bail granted to respondent No.2/accused, by the learned Additional Sessions Judge, Aurangabad, in Bail Application No.2524 of 2022 on

10.01.2023, in respect of C.R.No.346 of 2022 registered with Phulambri Police Station, District Aurangabad, for the offences punishable under Sections 420, 409, 467, 468 and 471 of the Indian Penal Code.

3. The learned counsel for the applicant would submit that the offence is serious. Hard earned money of poor persons has been siphoned. Respondent No.2 had expressed his willingness to deposit the amount allegedly misappropriated and made an application to the Executive Director of the Devgiri Nagari Sahakari Path Sanstha Maryadit, Aurangabad contending that he was ready to mortgage the property of his father. Hence, the bail has been granted. However, the Court has incorrectly observed that the charge is kept on the property of his father. The facts were not verified and it was considered as a ground for bail. He is repeatedly arguing that there was no recovery of money. Huge amount has been involved in the crime. Hence, bail granted to the accused may be cancelled.

4. The learned counsel for the accused would submit that the Court has considered merits and demerits and concluded that his incarceration is not essential as the case rests upon the documents and the documents were in possession of the Pat Sanstha. Therefore, it cannot be said that the impugned order is perverse or arbitrary.

5. Perused the order granting bail. The Court has discussed about the letter addressed to the Executive Director, Deogiri Nagari Patsanstha, but did not consider it as a sole ground for granting bail. The Court has also considered the merits of the case. It is well reasoned order. The recovery of the amount is not the job of the criminal court. The efficacious remedy to recover the money is available. Nowhere it appears that the Court granting bail considered the material which is not admissible and ignored admissible material. The order granting bail is neither perverse nor arbitrary. There were no overwhelming circumstances to cancel bail. Hence, the order:-

- i) Application for cancellation of bail stands dismissed.

(S. G. MEHARE)
JUDGE

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