

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO. 30 OF 2023

Shaikh Mushtaq Ahamad Mohmmad Iqbal

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. S. R. Dheple, Advocate for the applicant.

Mrs. R. P. Gour, APP for the State.

Mr. J. V. Patil, Advocate for respondent No. 2.

CORAM : R. M. JOSHI, J.

DATE : 01st AUGUST, 2023.

ORDER

1. This application is filed under Section 439(2) of the Code of Criminal Procedure for cancellation of anticipatory bail granted to respondent No. 2 on 24th January, 2023 in Criminal Bail Application No. 1105/2022.

2. Applicant is informant who had lodged First Information Report bearing Crime No. 854/2022 registered with MIDC Police Station, Jalgaon for the offence punishable under Section 420, 465, 467, 468, 471 of Indian Penal Code. It is allegation of applicant that respondent No. 2 is Secretary of Muslim Kbrastan and Idgah, Jalgaon. It is alleged that he applied to the Municipal Corporation,

Jalgaon for incurring expenses for burial purpose due to Covid 19 Pandemic by showing false and fabricated record. It is alleged that the Municipal Corporation was duped for Rs. 12,07,500/-. It is further stated in the Wakf report that the amount was credited through NEFT in the account of the trust. It is alleged that though such amount is received from the Corporation, infact, the relatives of the deceased persons had incurred the expenses of burial. It is the contention of applicant that respondent No. 2 is absconding since the date of the incident and filed application before learned Additional Sessions Judge, Jalgaon.

3. Learned counsel for the applicant states that learned Additional Sessions Judge, while granting anticipatory bail, has failed to take into consideration the allegations made against respondent No. 2 which are serious in nature and require custodial interrogation. The said submission is opposed by learned counsel for respondent No. 2 stating that the Court, while granting anticipatory bail, has observed that the crime is based on documentary evidence and entire documents are in the custody of Municipal Corporation. Thus, according to him, it is rightly held that it is a fit case for grant of anticipatory bail.

3. Perusal of the record indicates that respondent No. 2 is Secretary of the trust. It is not in dispute that the entire amount has been received by bank transfer from Municipal Corporation. There is no denial of the fact that the resolutions were passed by the trustees and it is alleged that the complainant was also party to the said resolutions. There is substance in the contention of learned counsel for respondent No. 2 that there is no material on record to indicate that respondent No. 2 is the beneficiary of the alleged crime. In the light of this, the observations made by learned Additional Sessions Judge, while granting bail, on the basis of available material on record, that the crime is related to documentary evidence which is already in the custody of Municipal Corporation and nothing is to be recovered from respondent No. 2, deserve to be accepted. Investigating Agency was also silent about any criminal antecedent against him. Thus, the impugned order satisfies all required conditions for grant of pre-arrest bail. Hence, no case is made out for causing any interference therein. Hence, application is dismissed.

(R. M. JOSHI)
Judge