

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO.29 OF 2023

Mahesh Trimbakrao Jeevane

APPLICANT

VERSUS

Madhav Irappa Chambule and Another

RESPONDENTS

.....
Mr. Mahesh T. Jeevane, applicant – Party in person
Mrs. R. P. Gour, APP for respondent - State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 8th FEBRUARY, 2023

ORDER :

1. By this application, filed under section 439 (2) of the Criminal Procedure Code, the applicant seeks cancellation of anticipatory bail granted to respondent No.1 by Additional Sessions Judge, Udgir in Crime No. 297 of 2021 registered with Udgir Rural Police Station for offence punishable under sections 420, 274, 275, 276 read with 34 of the Indian Penal Code and under sections 34 and section 9 (b), 18 (c), 17B, 27 of Drug and Cosmetic Act, 1940.

2. Applicant has lodged FIR against respondent No.1 and one Dr. Namdeo Giri alleging that both the accused persons, who are medical practitioners, have sold him six fake remdesivir injections for consideration of Rs.90,000/-. He purchased the said drug for treating his ailing mother, who was suffering from fever. Four vials of the said injections were administered to his mother and empty bottles of the injection were retained by him and remaining two vials containing remdesivir were handed over by him to the investigation officer. He, therefore, claimed that he is cheated by both the accused persons.

3. Pursuant to lodging of the FIR, respondent No.1 (accused No.1) approached Sessions Court. His anticipatory bail application is allowed. The applicant has impugned said order in the present application.

4. Heard the applicant, who appears in person and the learned Additional Public Prosecutor. Perused the documents placed on record. Charge sheet is filed in the present matter on 3rd August, 2022 and the case is numbered as RCC No. 300 of 2022. Accused No.2 Dr. Namdeo Giri has committed suicide on 31st May, 2022.

5. Sessions Court, while granting anticipatory bail to respondent No.1, has taken into consideration the facts of the case and the aspect that nothing is to be recovered from respondent No.1. By relying on the ratio in "***Siddharam Satlingappa Mehetre V/s State of Maharashtra***" AIR 2011 SC 312 the Sessions Court has granted anticipatory bail to respondent No.1. The Sessions Court has observed that respondent No.1 has co-operated in the investigation and the investigation officer has not found it necessary to arrest the accused. Even in the say filed by the Investigation Officer, in the anticipatory bail application of respondent No.1, he had not prayed for cancellation of anticipatory bail granted to respondent No.1. Considering the facts of the case, the Sessions Court has granted anticipatory bail to respondent No.1.

6. The applicant – party in person has strenuously urged that taking into consideration the serious allegations against respondent No.1, he does not deserve protection, yet the Sessions Court has erroneously granted anticipatory bail in his favour.

7. Considering the attending circumstances, particularly the fact that charge sheet is filed in the present offence, it is not

desirable to cancel the anticipatory bail granted in favour of respondent No.1 by Sessions Court vide order dated 20th January, 2023.

8. The application being devoid of merit, is rejected.

[NITIN B. SURYAWANSHI]
JUDGE

drp/acb29-23.doc