

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

2 APPLICATION FOR CANCELLATION OF BAIL NO.73 OF 2023
IN BA/1049/2020

SHATRUGHAN SHAHAJI PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicant : Ms. Mhase Madhaveswari S.
APP for Respondent-State : Mr. S. P. Tiwari.
Advocate for Respondent Nos.2 & 3 : Mr. Kawade Shrikant G.

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CORAM : S. G. MEHARE, J.
DATE : 25.10.2023

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondent-State and learned counsel for respondent Nos.2 and 3/accused.
2. This Court had granted conditional bail to respondent Nos.2 and 3. Firstly, they were restrained from entering the village. However, they got that condition relaxed. Another condition was that they should not threaten the witness.
3. The contention of the applicant is that respondent Nos.2 and 3 started threatening the complainant and the witnesses. Reports of the incident threatening them were lodged. Finally, on the report of the mother of the present applicant, a Chapter

case under Section 107 of the Cr.P.C. was registered against them. They appeared there and executed a bond to maintain peace.

4. It has been argued that this is the best possible evidence to believe the complainant that respondent Nos.2 and 3 were threatening the witnesses and the family members of the complainant. The offence is serious. There is an apprehension of danger to the witnesses at the hands of respondent Nos.2 and 3. Hence, their bail may be cancelled.

5. Learned APP has submitted the report of the Sub Divisional Officer, Nilanga supporting the contentions of the applicant that on the report of the mother of the complainant, a N.C. was registered and on the basis of that N.C., the Chapter case under Section 107 of the Cr.P.C. was registered.

6. Learned counsel for respondent Nos.2 and 3 would submit that the reports were malafide. Those were lodged after this Court relaxed the condition “not to enter the village”. No incident as such happened. The allegations were not concocted and false. To avoid such false allegations, they are ready to stay away from village as per the earlier order.

7. Threatening the witnesses is a matter of serious concern in criminal matters. This Court while granting bail had imposed the specific condition that the accused shall not tamper with the prosecution evidence in any manner. The allegations of threat is always the matter of controversy. It is difficult to find out the truth who is right. In the case of threats, normally, the non cognizable offences are registered. Hence, the police barely records the N.C. case. However, in this case, on the report of the mother of the complainant, a Chapter case was registered against respondent Nos.2 and 3. That supports the contention of the applicant that respondent Nos.2 and 3 are violating the bail conditions. The trial is yet to open. It was a serious case of two murder. The applicant and respondent Nos.2 and 3 have the fields adjoining to each other and the common boundaries. It has been alleged that in the field, they had threatened the witnesses. On the basis of the material available on record, it may be believed that the allegations of threat are probable. Hence, the applicant is believed. Respondent Nos.2 and 3 have apparently violated the bail conditions not to tamper with the prosecution evidence. Hence, the application deserves to be allowed. Hence, the following order :

ORDER

- (i) Application for cancellation of bail is allowed.
- (ii) The bail granted to respondent Nos.2 and 3 by this Court by order dated 24.09.2020 in Bail Application No.1049 of 2020 has been cancelled.
- (iii) Their surety bonds and bail bonds also stand cancelled.
- (iv) The sureties stands discharged.
- (v) Respondent Nos.2 and 3 to surrender before the Trial Court on 28.11.2023. Till then, they shall not enter the village from today itself.
- (vi) Till they are surrender before the Trial Court, they shall furnish their current cell phone numbers to concern Police Station with an undertaking that they shall not change it till 28.11.2023.

(S. G. MEHARE, J.)

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vmk/-