

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO.83 OF 2023

VAIBHAV DASHRATH ADHAV

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. S. S. Jadhavar

APP for Respondent No. 1: Mr. S. W. Munde

Advocate for Respondent No. 2 : Mr. S. D. Kotkar

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CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 04, 2023

PER COURT :

1. This application is for cancellation of anticipatory bail granted by the learned Additional Sessions Judge, Ahmednagar in Bail Application No. 358/2023 in favour of Respondent No. 2.

2. First information report came to be lodged by Applicant being Crime No. 255 of 2023 registered with Tophkhana Police Station, Ahmednagar for the offences punishable under Sections 379 of Indian Penal Code. It is the contention of Applicant/Original Informant that he has purchased JCB Machine bearing no. MH-20-EY-7351 from Anwar Shaikh on the basis of notarized document and took possession thereof. It is alleged that on

31.01.2023 his JCB was not found and at around 09.30 pm, he received phone call from Respondent No. 2 stating that he took away JCB from the house of informant. On the basis of these allegations, report came to be lodged.

3. Respondent No. 2 filed application for anticipatory bail with the contention that by agreement dated 22.08.2019 he had purchased the said JCB from Anwar Shaikh and has also paid 42 installments towards repayment of loan.

4. Learned Additional Sessions Judge, Ahmednagar accepted the contention of Respondent No. 2 herein and observed that this appears to be a civil dispute in respect of sale of JCB to two persons. Apart from this observation, except for the statement made by the informant that Respondent No. 2 called him over the phone informant about he took away JCB, there is absolutely no evidence to connect him with the crime. Moreover, there is unexplained delay in lodging of report to police. All these facts were relevant while deciding application for pre-arrest bail and they are rightly appreciated by learned Additional Sessions

Judge.

5. In view of aforestated facts, there is no infirmity in the order of grant of anticipatory bail to the Respondent No. 2. Hence, application stands dismissed.

(R.M. JOSHI, J.)

Malani