

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO.103 OF 2022
IN BA/1411/2019

SHANTABAI W/O. VISHWAMBHAR BHARKAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Mr. Gajanan G. Kadam
APP for Respondent No.1/State : Mr. S. B. Narwade
Advocate for Respondents No.2 to 6 : Mr. Avinash D. Hande
...

CORAM : S. G. MEHARE, J.

DATE : 09-03-2023

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 respondents No.2 to 6.
2. The application for cancellation of bail has been filed alleging that in breach of bail conditions, respondents No. 2 to 6 entered the village.
3. The learned counsel for respondents No.2 to 6 would argue that the trial has been commenced. Five witnesses have been examined. Except respondent No.2, the allegations levelled against the other co-accused are false. The evidence by way of CCTV footage produced on record is not clear and admissible.

Respondent No.2 was to enter the village due to the ill-health of his father. He was assaulted; therefore, he had lodged a report against the first informant/applicant. The son of the first informant did not supply CCTV footage to the police to verify its authenticity.

4. Perused the papers. It is not in dispute that respondents No. 2 to 6 were released a conditional bail not to enter village Gortha, Taluka Umri, District Nanded till conclusion of the trial. The applicant has produced the first information report against respondent No.2 showing that he entered the village. The respondent No.2 also did not deny it. As far as the material against remaining respondents is concerned, the CCTV footage photographs clearly shows the respondents No. 2 to 6 entered the village. Respondent No.5 Shankar Digambar Bharkad is also seen in CCTV footage. One NC has also been registered against him. The police have specifically observed in the inquiry that in violation of the bail condition, respondents No. 2 to 6 came to reside at village Gortha, Taluka Umri, District Nanded. To counter these allegations, the Sarpanch has issued certificate in favour of respondents No. 2 to 6 that they did not return to village Gortha.

5. The material produced by the applicant *prima facie* shows the presence of respondents No. 2 to 6 in the village. The Court is of the view that there is sufficient evidence to believe the applicant's case. The applicant has satisfied the Court that all

respondents No.2 to 6 have breached the bail conditions. Therefore, their bail is liable to be cancelled. Hence, the order :-

- i) The application is allowed.
- ii) The order granting bail to respondents No. 2 to 6 dated 02.07.2020 in B.A.No.1411 of 2019, is cancelled for breach of condition not to enter within the limits of village Gortha, Taluka Umri, District Nanded till conclusion of the trial.
- iii) The bail bonds and the surety bonds of respondents No.2 to 6 stand cancelled.
- iv) Respondents No. 2 to 6 are directed to surrender before the concerned Judicial Magistrate for taking them in custody and sending them to the magisterial custody till conclusion of the trial on or before 21.03.2023.
- v) If respondents No.2 to 6 would not appear, the arrest warrant be issued against them.

(S. G. MEHARE)
JUDGE