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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL 113 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO. 897 OF 2021

The State of Maharashtra

APPLICANT

VERSUS

Shaikh Javed @ Tipu Shaikh Maksood

RESPONDENT

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Mr. A. V. Deshmukh, APP for applicant – State

Mr. H. D. Deshmukh, Advocate for the respondent

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 20th FEBRUARY, 2023

ORDER :

1. Leave to correct the memo of application and grounds raised therein.

2. By this application, filed under section 439 (2) of the Criminal Procedure Code, the applicant – State seeks cancellation of anticipatory bail granted in favour of the respondent – accused, by this Court vide order dated 1st September, 2021 in Anticipatory Bail Application No. 897 of 2021.

3. It is submitted by the learned Additional Public Prosecutor that after passing of the order of granting anticipatory bail in favour of the respondent – accused, by this Court, he has indulged in commission of two offences i.e. Crime No. 472 of 2021 registered with Pundlik Nagar Police Station, Aurangabad for offence punishable under sections 307, 353, 323, 504, 506 of the Indian Penal Code, on 17th September, 2021 and Crime No. 399 of 2021 registered with CIDCO Police Station, Aurangabad for offence punishable under sections 120B, 342, 364, 364-A, 386, 394, 504 and 506-B of the Indian Penal Code on 23rd September, 2021.

4. Learned Additional Public Prosecutor submits that the respondent – accused is a habitual offender and 15 offences are registered against him in past and for effective investigation of the present crime, custody of the respondent – accused is necessary.

5. Learned advocate representing the respondent – accused, has filed affidavit in reply. He strenuously opposed the application for cancellation of bail, submitting that the respondent – accused is falsely implicated in two new offences, which are registered against him. He submits that after the order

granting anticipatory bail in favour of the respondent – accused was passed by this Court, he was detained under the provisions of the MPAD Act from 22nd November, 2021 to 21st November, 2022. He submits that the respondent – accused is falsely implicated in both the crimes, so as to seek cancellation of anticipatory bail granted in his favour by this Court. He, therefore, submits that there is no substance in the application filed by the State and the same deserves to be dismissed.

6. It appears from the investigation papers and record that the applicant has indulged in commission of two offences i.e. Crime No. 399 of 2021 registered with CIDCO Police Station and 472 of 2021 registered with Pundlik Nagar Police Station, after he was granted anticipatory bail by this Court, vide order dated 1st September, 2021. Fifteen serious offences are registered against the respondent – accused, which further confirms allegations of the State that respondent – accused is habitual offender, who is repeatedly indulging in criminal activities.

7. Considering these aspects, anticipatory bail granted in favour of the respondent – accused is liable to be cancelled.

8. In the result, the application is allowed. Anticipatory bail granted to the respondent – accused, by this Court, vide order

dated 1st September, 2021 in Anticipatory Bail Application No. 897 of 2021 is hereby cancelled. Respondent – accused is directed to surrender before the Investigating Officer.

[NITIN B. SURYAWANSHI]
JUDGE

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