

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

APPLICATION FOR CANCELLATION OF BAIL NO.115 OF 2022

THE STATE OF MAHARASHTRA
VERSUS
SANDIP GANESH WALVI

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APP for Applicant-State : Mr. S. B. Narwade.
Advocate for Respondent : Mr. M. G. Kochar & Mr. B. R.
Waramma.

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CORAM : S. G. MEHARE, J.
DATE : 09.01.2023

PER COURT :-

1. Heard the learned APP for the applicant/State and learned counsel for the respondent.
2. The applicant was found not mentally unfit at the time of the alleged incident. This aspect has been considered after referring the accused to Medical Board in terms of Section 328 of the Cr.P.C. Since the report was positive, powers under Section 328 of the Cr.P.C. appears to have been exercised. The learned Additional Sessions Judge released the applicant on bail, on his unfit mental condition of entering for defence.
3. Learned APP would argue that such an accused should not be granted bail. However, certain orders of supervision

should have been passed. Therefore, the order releasing the applicant is erroneous. The learned APP has an apprehension that there was no undertaking from the relatives of the accused to obtain regular out patients for psychiatric treatment from the nearest medical facility or to prevent from doing injury to himself or to any other person. Since, it was not specifically ordered in the bail order that his friends or relatives shall take undertaking as required under proviso to Section 333(1) of Cr.P.C. Learned APP would submit that the impugned order is erroneous.

4. Learned counsel appearing for the applicant would submit that the undertaking is required under Section 330 Sub Section (1) has already been furnished. The parents are taken care of the accused, who was found to be incapable of entering defence for the reasons of unsound mind.

5. It appears that the requisite conditions to furnish the undertaking has been complied with. The learned Court granting bail has considered the report received under Section 328 of the Cr.P.C. In view of that matter, it appears that it is not the case that the learned Court granting bail did not consider the material on record. There appears no grounds to cancel the bail.

6. Hence, the application stands dismissed.

(S. G. MEHARE, J.)

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vmk/-