

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

CRIMINAL APPLICATION NO. 2256 OF 2022

Dr. Anjum Fatima Khadari Abdula

.. Applicant

Versus

The State of Maharashtra and another

.. Respondents

Mr. Hanmant V. Patil, Advocate for the Applicant.

Mr. Y. G. Gujarathi, APP for Respondent No. 1.

Mr. K. P. Rodge, Advocate for Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATED : 23rd JANUARY, 2023.

P C. :-

. Heard learned advocate for the applicant, learned A.P.P. and learned advocate for respondent No. 2. Taken up for final disposal by consent of the parties.

2. The present application is filed challenging the order dated 21.06.2022 thereby cancelling the bail granted by the learned Sessions Judge. The applicant is made accused No. 2 in Crime No. 342/2021 dated 16.12.2021 registered with Udgir City Police Station for the offences punishable under Sections 420, 465, 467, 468 and 471 r/w Section 34 of the Indian Penal Code. The allegation is that while acting as Secretary of the educational institution namely Liberal Education

Society, Udgir, a complaint came to be registered by one of the office bearers of the said society. The complaint is in respect of acting upon the bogus documents submitted by accused No. 1 while getting appointed as Headmaster in the school. It is the ground taken by the applicant that being a secretary she has acted only upon the resolution passed by the management. As a matter of fact, the resolution was seconded by the informant himself. However, he has lodged the complaint against only two selected persons.

3. Apprehending arrest in connection with the said crime, the applicant had filed Criminal Misc. Application No. 248/2021 seeking bail in the event of her arrest in connection with the offence wherein condition (d) in the operative part was as below :

“(d) The applicant shall not leave jurisdiction of police station Udgir (Town), Udgir without prior permission of the Court till filing of the charge-sheet.”

4. It is the allegation of the respondent No. 2 that when this condition was very much in existence, this applicant has committed breach of the said condition and she had travelled to Mumbai without seeking permission from the Court. She had been to Mumbai on 24.01.2022 for some meeting. The application was moved on the basis of newspaper report. It is further alleged in the application that the

applicant is a medical practitioner and she needs to go out of jurisdiction for her work. The application was moved bearing Criminal Misc. Application No. 61/2022 in the Court of learned Additional Sessions Judge, Udgir. This applicant filed her say. She denied the fact of having committed breach of condition. She submits that the application is filed only on the basis of newspaper report. She also stated that, she has not suppressed the fact that she is a medical practitioner. In the application seeking bail she had shown her profession as Medical Practitioner. She had specifically stated in her application in paragraph No. 12 that, she is medical practitioner and social worker. Thus, it is submitted that there was no suppression.

5. The learned Court below after going through the application and say filed by the applicant allowed the application and cancelled the bail that was granted to the applicant. In paragraph No. 16 it is observed that, on the basis of newspaper item that the applicant had travelled to Mumbai for a meeting with CEO of Haj House. In paragraph No. 17 it is observed that, there is a breach of condition and further that the applicant suppressed that she is a Doctor. This application was allowed by order dated 21.06.2022. It is thus the applicant is before this Court.

6. It is vehemently argued by the applicant that while applying for bail the applicant had clearly stated her occupation as Medical Practitioner as already observed in paragraph No. 12. She has also stated that, she is a medical practitioner and other grounds were also taken including that it is this informant who has seconded the resolution on the basis of which accused No. 1 came to be appointed. Learned advocate pointed out the application filed seeking bail in the event of arrest and the order passed by the Court. He also relied upon the judgments in support of his submissions.

7. Learned advocate for respondent No. 2/informant opposed the application. He has also filed affidavit in reply opposing the application. It is the case of the respondent No. 2 that there was condition imposed by the Court. It was necessary for the applicant to abide by the said conditions. The condition was that not to leave the jurisdiction without prior permission of the Court and thus it was open for the applicant to make an application before the Court. In this case, she did not file any application before the Court, but she did not even bother to inform the concerned police station as well and thus the breach of condition is deliberate. When a person has committed deliberate breach of condition, then no indulgence needs to be shown to such a person.

8. Learned A.P.P. also opposed the application submitting that even till now no charge-sheet is filed as the investigation is still in progress and it is therefore necessary for the applicant to abide by all the conditions.

9. This Court has specifically put a query to both the respondents as to whether there is any case made out to show that because of breach of condition any prejudice is caused in the trial or investigation is affected or the trial is likely to be affected by this act, but no answer is given. They have clearly stated that there is no such a case. However, they insist that it is a matter of propriety and conduct of the applicant which requires to maintain the order of cancellation of bail.

10. After hearing the arguments and after looking to the various judgments filed by the learned advocate for the applicant, this Court finds that certainly a case is made out calling for interference at the hands of this Court. It is trite that the liberty granted should not be curtailed lightly though it appears that there is a breach of condition, but it is also seen that subsequently the said condition was relaxed by this Court showing that it was not a material condition. Learned advocate for respondent No. 2 is correct in submitting that this application for relaxation of condition was moved only after breach of condition pointed out to the Court below. Still this Court feels that if

no serious prejudice is caused, this need not be considered specifically when a question of liberty of a person is involved. The prosecution has not shown even to indicate that the applicant by doing this has tried to interfere with the investigation or otherwise.

11. Considering all these aspects, this Court feels that the criminal application deserves to be allowed. The criminal application is therefore allowed in terms of prayer clause (B).

12. The criminal application is disposed off.

(KISHORE C. SANT, J.)

PS.B.