

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

**APPLICATION FOR CANCELLATION OF BAIL NO.150 OF 2021
IN
BAIL APPLICATION NO.1383 OF 2019**

The State of Maharashtra
Through Police Station Officer,
Renapur, Tq. Renapur,
Dist. Latur.

Applicant.

Versus

Swapnil Shrikishan Bhise,
Age : 21 years, Occu : Agri,
R/o : Bhokaramba, Tq. Renapur,
Dist. Latur.

Respondent/
(Original Accused)

Mr. S.B.Narwade APP for applicant State
Mr. K.T.Jamdar advocate for respondent.

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CORAM : S.G. CHAPALGAONKAR, J.

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DATE : 20th SEPTEMBER, 2023.

ORDER :-

1. The Applicant-State seeks cancellation of bail granted in favour of respondent/accused vide order dated 19.12.2019 in BA No.1383 of 2019 passed by this Court.

2. Dr. Shivaji Bhise had lodged report to police station Renapur leading to registration of Cr No. 234 of 2019. The respondent / Accused had approached this court vide bail application no.1383 of 2019 in crime no.234 of 2019 registered with police station Renapur, District Latur for the offences punishable under sections 307, 324, 323, 447 r/w section 34 of the IPC. This court pleased to allow the application vide order dated 19.12.2019 and directed release of the applicants on bail subject to certain conditions

apart from executing PR & SB of Rs.15,000/-. The relevant conditions purpose of present matter reads thus :-

“III. The applicants shall not tamper with the prosecution evidence.

IV. The applicants shall not enter village Bhokaramba, Tq. Renapur, Dist. Latur for next three months.

V. The applicants shall not indulge in any criminal activity.”

3. Learned APP appearing for the applicant state would submit that respondent/accused was released on bail subject to aforesaid conditions. He would submit that respondent/accused after his release on bail in crime no.234 of 2019 committed another offence. He would submit that condition No. V in bail order date 19.12.2019 stipulates that the applicant shall not indulge in any criminal activity. He would submit that after release of the applicant on bail, crime No.414 of 2020 dated 24.6.2020 for the offence p/u/s 341, 504 and 506 of the IPC has been registered against him on information given by Pandurang Shevale. He would submit that contents of the FIR would show that the respondent/accused-Swapnil intercepted the complainant, hurled abuses and threatened them.

4. Learned advocate appearing for respondent- accused vehemently opposes the prayer. He would submit that false allegations are made against respondent-accused at the instance of Mr. Shivaji Bhise, who is finding reason to put respondent/accused behind bar. It is submitted that the Pandurang Shevale cultivates land of Shivaji Bhise, therefore, at his instance false report has been lodged by Pandurang with intention to create material seeking cancellation of bail.

5. I have considered the submissions advanced on behalf of the learned advocates appearing for respective parties. I have

perused the impugned order passed by this Court in BA No.1383 of 2019. Similarly, I have perused the FIR in Crime no.414 of 2020. It is registered on the basis of information given by Pandurang Shevale. He specifically states that he is cultivating the land of Madhukar Gore and Dr. Shivaji Shirrangrao Bhise on Batai basis. Even, he refers to the earlier offence in crime no.234 of 2019 registered against the respondent accused. He alleges that respondent Swapnil and co-accused threatened him.

6. In this backdrop, possibility that false reports being lodged by Pandurang Shevale at the instance of the Mr. Shivaji Bhise-first informant in crime no.234 of 2019 cannot be ruled out. At this stage contents of FIR in Cr No 414 of 2020 cannot be accepted as gospel truth, to hold that the respondent/accused has breached the conditions imposed by this Court while releasing him on bail in crime no.234 of 2019. Except FIR in Cr No. 414 of 2020 no other material placed before this court to substantiate allegations against respondent accused. At this stage when veracity of allegations in Cr No. 414 of 2020 is subject matter of Trial, it is difficult to hold that the respondent/accused has indulged in criminal activity and breached condition No.V in BA No.1383 of 2019 and cancel the bail granted to him. Pertinently, affidavit of Pandurang Shevale or copy of charge-sheet containing statements of independent witness could have filed on record, but no such efforts are made.

7. In that view of the matter, there is no merit in the present application. Hence, the order.

ORDER

ACB No.150 of 2021 in BA No.1383 of 2019 is hereby rejected.

(S.G. CHAPALGAONKAR, J.)

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