

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

**APPLICATION FOR CANCELLATION OF BAIL NO.157 OF 2021
IN
BAIL APPLICATION NO.191 OF 2020**

Dr. Shivajirao S/o Shrirangrao Bhise,
Age- Major, Occu.: Medical Practitioner,
R/o. Bhokarmba Tq. Renapur,
Dist. Latur. At present Latur. .Applicant..

Versus

- 1) The State of Maharashtra
Through Police Station Officer,
Renapur, Tq. Renapur,
Dist. Latur.
- 2) Amol S/o Shrikishan Bhise,
Age. 23 years, Occu. Agri,
R/o. Bhokaramba, Tq. Renapur,
Dist. Latur. Respondents

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Mr. P.P. More advocate for applicant.
Mr. S.B.Narwade APP for respondent no. 1 State
Mr. K.T.Jamdar advocate for respondent no.2.

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**WITH
APPLICATION FOR CANCELLATION OF BAIL NO.147 OF 2021
IN
BAIL APPLICATION NO.191 OF 2020**

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

Versus

Amol S/o Shrikishan Bhise
Age. 23 years, Occu. Agri,
R/o. Bhokaramba, Tq. Renapur,
Dist. Latur. Respondent.

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

...
WITH
CRIMINAL APPLICATION NO.3064 OF 2022
IN
BAIL APPLICATION NO.191 OF 2020

Amol Shrikishan Bhise,
age 25 yrs, Occ. Agriculture,
R/o Bhokaramba, Tq. Renapur,
District Latur.

Applicant
(orig accused)

Versus

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

Respondent

...
Mr. K.T. Jamdar, advocate for applicant.
Mr. S.B.Narwade, APP for Respondent-State

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CORAM : S.G. CHAPALGAONKAR, J.

...
DATE : 20th SEPTEMBER, 2023.

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ORDER :-

1. The applicant/original complainant as well as the State of Maharashtra approached this court seeking cancellation of bail granted by this Court in favour of respondent/accused vide order dated 19.5.2020 in BA No.191 of 2020, whereas accused has filed criminal application no.3064 of 2022 for relaxation of condition imposed under said order. The respondent/accused had approached this court vide bail application no.191 of 2020 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 was pleased to allow the application vide order dated 19.5.2020 and directed release of the applicant on bail subject

to certain conditions apart from executing PR & SB of Rs.25,000/-. Following conditions were imposed while releasing the applicant at the relevant time for the purpose of present matter, which reads thus :-

“I. The applicant is not to tamper with the evidence influence the witnesses and not to commit similar offence.

II. The applicant is not to enter village Bhokaramba Tal. Renapur and also Latur, where Vishwajit Bhise, injured person, is living till disposal of the case and he can enter the places only for facing the trial of case.”

2. Learned counsel appearing for the applicant and the learned APP would submit that, the respondent/accused has breached the aforesaid conditions. Hence, bail granted to him is liable to be cancelled. They would invite attention of this Court to FIR in crime no.246 of 2021 dated 6.6.2021 registered against respondent/accused for the offence punishable u/s 354, 341, 323, 504, 506 r/w 34 of the IPC. They submits that as per complaint/information given by one Mangal Pandurang Shevale, stating that on 6.6.2021 while she was proceeding alongwith her husband from Bhokramba Shivar, respondent/accused alongwith co-accused intercepted them and hurled abuses. It is further alleged that accused Amol Bhise assaulted her husband so also outraged her modesty. She further clarifies that she has disclosed incident to Balbhim Gore and Hanmant Gore, residents of same village.

3. On the basis of contents of the aforesaid FIR, learned advocate for complainant and learned APP vehemently submits that respondent/accused has breached both the conditions imposed under bail order dated 19.5.2020. They would submit that looking to the spot of the incident as reported in crime no.246 of 2021, respondent/accused has entered in village Bhokaramba, Tq. Renapur. Secondly,

he found to be involved in the similar offence.

4. Learned advocate appearing for respondent/accused vehemently opposes the prayer. He would submit that false allegations are made against him at the instance of Mr. Shivaji Bhise, who is bent upon to exercise every trick to put respondent/accused behind bar. It is submitted that, respondent/accused is residing at Renapur since his release on bail as per Court orders and he has never entered in village Bhokaramba. It is further submitted that the informant is cultivating the land of Shivaji Bhise, therefore, at his instance false report has been lodged. Learned advocate appearing for respondent/accused invites attention of this Court to the evidence of Mangal Shevale recorded in RCC No.79 of 2021 before JMFC at Renapur, wherein she has specifically admitted that her husband is cultivating the land of Dr. Shivaji Bhise on Batai basis. She further admits that she is aware about the offence registered against respondent/accused, which is pending before the Court.

5. Having considered submissions advanced on behalf of the learned advocates appearing for respective parties and upon perusal of the order passed by this Court in BA No.191 of 2020, it can be observed that, this Court while granting bail in favour of the respondent/accused in the year 2020 imposed aforementioned conditions in the interest of prosecution.

6. So far as first condition that the applicant shall not tamper with the evidence, influence the witnesses and not to commit similar offence is concerned, the applicants are relying upon the FIR dated 6.6.2021 in crime no.246 of 2021 to contend that respondent/accused has indulged in similar offence and as such breached the conditions of bail. However, it would be difficult to accept such contentions. Firstly, in Crime no.246 of 2021 offences

alleged against the respondent no.2 are punishable u/s 354, 341, 323, 504, 506, 34 of the IPC. It is based on the complaint given by Mangal Pandurang Shevale. Pertinently, in pursuance of the aforesaid crime no.246 of 2021, trial proceeded, statement of Mangal is recorded, wherein she admits that her husband is cultivating the land of applicant Dr. Shivaji Bhise, who is seeking cancellation of bail. Considering the allegations in crime no.246 of 2021, in light of the admission of the informant Mangal, possibility as expressed by learned advocate for respondent/accused that false report is lodged by Mangal at the instance of Applicant- Dr. Bhise, with intention of creating material to seek cancellation of the bail cannot be ruled out. Pertinently except FIR in Cr No 246 of 2021 nothing is placed on record to support allegations. The copy of charge-sheet or affidavits of independent witnesses could have been easily made part of this application, but no such record filed. Therefore, contention of the applicant in this regard cannot be accepted.

7. Another condition that was imposed against respondent/accused was that he shall not enter in village Bhokaramba, Tq. Renapur. Perusal of the allegations in crime no.246 of 2021 would show that the incident occurred while the informant was proceeding towards Bhokaramba Shivar. There is no stipulation that the spot of the incident is within Bhokaramba village. In absence of specific stipulation to that effect in the complaint, it is difficult to hold that the respondent/accused entered in the village Bhokaramba and breached the conditions imposed upon him. In that view of the matter, there is no force in the contentions of the applicant that respondent/accused committed breach of the conditions of the bail order.

8. So far as the application of accused bearing Criminal Application No.3064 of 2022 in BA 191 of 2020 for relaxation of the

condition is concerned, it would be difficult to accept the prayer at this crucial stage. The condition has been imposed with an object to secure smooth trial and to avoid tampering/pressurizing witnesses residing in village Bhokaramba. The applicant/accused is residing at Renapur since the date of his release on bail. There is no difficulty for him to continue with same arrangement till conclusion of the trial. Hence, the application sans merit. Hence, following order.

ORDER

- i. ACB No.157 of 2021 in BA No.191 of 2020 and ACB No.147 of 2021 in BA No.191 of 2020 are hereby rejected.
- ii. Criminal application No.3064 of 2022 in BA No.191 of 2020 is also rejected.

(S.G. CHAPALGAONKAR, J.)

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