

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

CRIMINAL APPLICATION NO. 103 OF 2022

The State of Maharashtra vs. Sumit s/o Mohan Dere

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. A. M. Kadukar, Advocate for applicant State.
Mr. Amol Dhobade, APP for respondent.

CORAM : ANIL L. PANSARE J.

DATE : 04/01/2023

The applicant prosecution has filed the present application under Section 439(2) of the Code of Criminal Procedure (Cr.P.C.), seeking cancellation of bail. Vide order dated 27/10/2021 passed in Criminal Application (BA) No.1072 of 2021, the applicant was ordered to be released on regular bail, with certain conditions, in Crime No.35 of 2021 registered with Police Station Shantinagar, Nagpur, for the offences punishable under Sections 143, 147, 148, 149, 302 and 323 of the Indian Penal Code (IPC) and Sections 4/25 of the Arms Act, 1959 and Section 135 of the Maharashtra Police Act, 1951. He has breached the conditions.

2. The relevant conditions that has been allegedly breached by the applicant are as under :-

“(ii) The applicant while on bail, shall not indulge in any criminal activity and if found involved in any offence, the prosecution shall be entitled to seek cancellation of bail on that ground alone.

“(iii) The applicant shall not enter the territorial jurisdiction of the Shantinagar Police Station, Nagpur till the conclusion of the trial. Any breach of this condition shall ipso facto entail the prosecution to seek cancellation of bail.”

3. Learned APP submits that applicant has breached both the conditions. He has drawn my attention to Annexure-R4, which is the First Information Report (FIR) lodged on 01/04/2022 against the applicant for the offences punishable under Sections 4 and 25 of the Arms Act, 1959 and Section 135 of the Maharashtra Police Act, 1951. The applicant was found in the area situated within the territorial jurisdiction of Shantinagar Police Station, Nagpur with a knife. Thus, apparently the applicant has breached condition Nos.(ii) and (iii) of the order directing him to release on bail.

4. Learned counsel for the respondent submits that the respondent has been falsely implicated in the crime and that he was not present in the said area. However, except for his statement

there is nothing on record that would indicate the correctness of the statement made by the learned counsel for the respondent.

5. The respondent is facing serious allegation of commission of murder in Crime No.35 of 2021. He ought not to have entered the territorial jurisdiction of Shantinagar Police Station, Nagpur pending trial. The order of release on bail itself made it clear that any breach of these conditions shall *ipso facto* entail the prosecution to seek cancellation of bail and therefore, the prosecution is fully justified in seeking cancellation of bail granted to the respondent. It appears that respondent has no respect to the Court orders'. The prosecution, therefore, has made out a case for cancellation of bail.

6. Accordingly, the bail granted to the respondent vide order dated 27/12/2021 in Criminal Application (BA) No.1072 of 2021 in connection with Crime No.35 of 2022, registered with Shantinagar Police Station, Nagpur stands cancelled.

7. Application is allowed in above terms.