

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [APPLN] NO.124/2022.

Pramila Bhushan Sangole

-VERSUS-

The State of Maharashtra and another.

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

Court's or Judge's Orders

Shri C.A. Babrekar, Advocate for the Applicant.
Shri V.A. Thakare, A.P.P. for Non-applicant No.1.
Shri D.S. Patil, Advocate for Non-applicant No.2.

CORAM : VINAY JOSHI, J.

DATE : JULY 12, 2023.

Heard.

2. This is an application seeking cancellation of bail in terms of Section 439[2] of the Code of Criminal Procedure alleging that non-applicant no.2/accused has committed breach of conditions imposed by this Court while releasing him on bail. Particularly, it is contended that accused has violated condition no.[iv] imposed by this Court in bail order, which reads as under :

“[IV] The applicant shall not directly or indirectly make any inducement, threat of promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.”

3. It is the contention of the applicant that earlier at the instance of a report lodged by the mother of non-applicant no.2/accused, a crime was registered against the present informant. The said criminal case bearing R.C.C.No.115/2019 was tried by the Judicial Magistrate, First Class, Akola. In said proceedings, evidence of mother of accused was going on in the Court of Magistrate on 05.11.2022. According to the applicant, while the evidence of mother of accused was being recorded, the accused tried to prompt his mother, and thus, he was asked to go out of the Court. It is alleged that while leaving the Court room, the accused abused the informant in filthy language for which a first information report dated 07.11.2022 has been lodged.

4. It is the contention of the applicant that while the accused was released on bail, this Court

has imposed a specific condition that the accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case. According to the applicant, the above incident dated 05.11.2022 amounts to violation of the condition and therefore, the bail is liable to be canceled.

5. On the other hand, the learned Counsel appearing for non-applicant no.2/accused has attracted my attention to the reply filed by the State on the pursis and the order of the Magistrate in the said case. Both have stated that they have not noticed such incident. As a matter of fact, for said incident first information report has been lodged, therefore, it is unwarranted to make any comments regarding the genuineness of the said grievance, since it is a subject matter of concerned first information report.

6. The question is – Whether on said incident, rather such grievance made by the complainant, bail is required to be canceled ?

The condition imposed by this Court though abstains the accused from pressurizing the witnesses relating to the existing case, however, it does not mean that he should quarrel or abuse the applicant in connection with another case. This Court has released the accused on bail on 09.09.2021 and till date besides the concerned first information report dated 07.11.2022, no grievance was put forth that the accused has pressurized the prosecution witness, concerning the existing case relating to the offence of rape.

7. It is well settled that when once liberty is granted by the order of the Court, it shall not be taken away unless exceptional grounds are made out. After considering the merits of this case the accused was released on bail. The said isolated incident, even if accepted as it is, cannot be treated as sufficient ground to cancel the bail. However, if there is repetition of such incident, then all these aspect would be taken into account while considering the case for cancellation, if made out.

8. In view of above, Criminal Application carries no merits, hence, the same is rejected.

JUDGE