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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.992 OF 2024

Pravin Ananda Rasal

APPLICANT

VERSUS

The State of Maharashtra

RESPONDENT

.....

Mr. Dnyaneshwar R. Kale, Advocate for the applicant

Mr. C. V. Bhadane, APP for respondent - State

Mr. N. B. Narwade, Advocate for informant

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 5th APRIL, 2024

ORDER :

1. By this application, filed under section 482 of the Criminal Procedure Code, applicant challenges order dated 2nd August, 2018 passed by learned Additional Sessions Judge, Ahmednagar below Exhibit-1 in Criminal Application No. 100 of 2018.
2. Applicant, along with 11 others, is accused in Crime No. I-159 of 2014 registered with Parner Police Station, District - Ahmednagar for offences punishable under sections 307, 143, 148, 148, 149, 323, 504, 506, 109 of the Indian Penal Code, in which charge sheet was filed on 17th June, 2015. Applicant came to be arrested on 25th June, 2015 and was granted bail by learned Additional Sessions Judge, Ahmednagar, on 7th June, 2016.
3. Trial Court cancelled bail granted to applicant, by order

dated 2nd August, 2018. Hence, the present application.

4. Heard learned advocate of applicant, learned APP for the State and learned advocate for informant. Perused the memo of criminal application, documents annexed along with it and the impugned order.

5. Learned advocate for applicant submits that though applicant preferred bail application No.457 of 2023, which came to be rejected by order dated 26th April, 2023, applicant did not challenge the order of cancellation of bail in that application. This Court has specifically observed that applicant has not challenged the order of cancellation of bail, therefore, now applicant has challenged order of cancellation of bail. Applicant has completed almost 8 years in jail and he is granted bail in subsequent Crime No. 19 of 2017 registered with Parner Police Station, District - Ahmednagar for offence punishable under sections 302, 143, 147, 148, 149, 120-B, 109, 506 of the Indian Penal Code and under sections 3/25 and 4/25 of the Arms Act, by this Court in Bail Application No. 1529 of 2022. He, therefore, submits that no grounds for cancellation of bail are made out and, hence, Trial Court has erred in cancelling bail granted to applicant. In support of his submissions, he relied on ***“Dolat Ram and Others V/s State of Haryana (1995) 1 SCC 349; Iqbal Ahmed Kabir***

Ahmed V/s State of Maharashtra 2021 ALL MR (Cri) 3105
and **Ajay Santosh Pandey and Another V/s State of**
Maharashtra 2021 ALL MR (Cri) 3119.

6. Learned APP and learned advocate for informant strenuously opposed the application arguing that while applicant was released on bail in the present crime, he is involved in serious offence of murder of eyewitness in the present crime. There are total 13 offences registered against applicant and release of applicant would have adverse impact on the morale of witnesses and hence, application be rejected.

7. It is matter of record that while granting bail to applicant in the present crime, Trial Court imposed following conditions:-

“(i) He shall not tamper with the prosecution witnesses / evidence in any manner.

(ii) He shall not directly or indirectly make any inducement, threat or promise to any other persons acquainted with the facts of the accusation against him so as to dissuade them from disclosing such facts to the Court or to any other police officer.

(iii) He shall attend the Court on 7/7/2016 along with all medical reports, test reports etc.

(iv) He shall attend concerned Police Station once in a week for one month and shall attend the Court on dates of case by remaining present himself or through advocate properly.

(v) *If it is shown prime facie that there is breach of any condition, the bail granted to him shall stand canceled automatically.”*

8. Record indicates that various complaints were made by deceased Sandip Varal against applicant, that he apprehends danger to his life from applicant and co-accused. Unfortunately, the complaints made by deceased were not taken seriously, which led to his murder and applicant is one of accused in said crime.

9. In the order of cancellation of bail, Trial Court has taken into consideration complaints of eyewitness in the present crime, namely, Sagar Varal, about danger to his life from applicant and other co-accused. After grant of bail to applicant, Sagar Varal is murdered and Crime No. 19 of 2017 is registered with Parner Police Station, District - Ahmednagar for offence punishable under sections 302, 143, 147, 148, 149, 120-B, 109, 506 of the Indian Penal Code and under sections 3/25 and 4/25 of the Arms Act. In this crime, prosecution case is that, applicant conspired with co-accused and committed murder of Sandip Varal. Trial Court has, therefore, observed that applicant has misused liberty of bail and has committed breach of conditions No.1, 2, and 5 of bail and cancelled bail granted to applicant. This order is passed by Trial Court on 2nd August, 2018, which is impugned by applicant in the year 2024.

10. It *prima facie*, appears from record that after release on bail in the present crime, applicant is accused of hatching conspiracy to murder one eyewitness in the present crime. This one instance is sufficient to cancel the bail granted to applicant, as he has misused liberty granted to him and has violated conditions imposed on him by the Trial Court.

11. Following observations in **“X V/s State of Telangana and Another” (2018) 16 SCC 511**, are squarely applicable to the present case :

“Supervening circumstances, for the cancellation of bail, must be of such a nature as to lead to the conclusion that the accused does not deserve to be at liberty either by reason of a violation of the conditions of bail or due to supervening conduct which bears upon the misuse of liberty by the accused. No such case is made out.”

12. It is well settled that interference or attempt to interfere with the due course of administration of justice are cogent and overwhelming circumstances for an order directing cancellation of bail. These circumstances are clearly made out by prosecution in the present matter. Trial Court is justified in cancelling bail granted to applicant, as applicant has misused liberty of bail and has breached conditions imposed on him.

13. Admittedly, applicant approached this Court by filing Bail Application No.457 of 2023 for bail, after his bail was cancelled

by Trial Court. This Court (Coram : S. G. Mehare, J.) rejected the bail application on merits vide order dated 26th April, 2024, which is reproduced herein below:-

“1. The applicant seeking bail in C.R. No. I-159/2014 registered with Parner Police Station, for offences punishable under Sections 307, 143, 148, 149, 323, 504, 506, 109 of the Indian Penal Code and Sections 4/25 and 3/25 of the Indian Arms Act.

2. Before adverting to the arguments of the respective counsels some facts needs to be mentioned here.

3. In the present crime, the accused was arrested on 24th June 2015. His first bail application of the applicant was rejected, however, the learned Additional Sessions Judge, granted him bail on 7th June, 2016. When he was on bail, he committed another crime and the M.C.O.C. Act was applied. The bail granted to him in this crime was canceled by an order dated 02.08.2018. He did not impugn that order; hence it has attained the finality. However, in another crime, which was registered subsequent to this crime, the applicant was granted bail.

4. Now the applicant is seeking bail on two counts firstly on the parity and secondly for languishing in jail for more than 5 years and 8 months.

5. The learned A.P.P. for respondent / State and learned counsel Mr. N. B. Narwade, opposing the bail application have vehemently argued that since the earlier bail was cancelled and its order attained the finality, the applicant can neither claim parity nor claim for bail on the ground of the length of his languishing in jail.

6. The learned counsel Mr. Nitin Shejpal for the applicant has argued at length. Narrating the history of his past, he has argued that brother of the applicant namely Pintu had been granted bail in the present crime. The

role attributed to him and the applicant is identical. Referring to the injury report, he argued that the so called person suffered injury due to the acts of the applicant had suffered the simple injuries. So the applicant deserves bail on the ground of parity.

7. Secondly, he claimed the bail on the ground that till date only one witness has been examined and there is no possibility of completing the trial in near future. To bolster his argument he relied on the case of

- (i) *Menino Lopes Vs. State of Goa* 1996 (1) Bom C.R. 334.
- (ii) *Union of India Versus K. A. Najeeb* 2021 DGLS (SC) 45
- (iii) *Iqbal Ahmed Kabir Ahmed Versus State of Maharashtra* 2021 DGLS (Bom) 991
- (iv) *Chintan Vidyasagar Upadhyay Vs. State of Maharashtra* 2021 DGLS (SC) 1138
- (v) *Ajit Bhagwan Tiwde Vs. State of Maharashtra, Bail Application No. 995 of 2021 (Bombay)*

8. Reading the above case laws, judicial pronouncement were that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts, unless the same is established before a neutral arbiter. It has also been pronounced that long period of custody without hopes of completing the trial in near future, is good ground for bail.

9. As far as the parity is concerned, the rule is the role attributed to the applicant shall be identical to the role attributed to the co-accused whom the bail has been granted.

10. In the case at hand, before granting bail to the other co-accused, the bail was granted to the applicant in the year 2016. However, when he was on bail, he committed another rime and thereafter his bail order was cancelled. The order cancelling bail has attained the finality. Unless the

order cancelling the bail is disturbed by the higher Court, it would not lie in his mouth that he is entitled to parity and he deserves bail for his detention in jail for sufficient length.

11, *The ratio laid down in the above case laws by the higher Court is to be applied based upon the facts of each case. In bail application, Court has to consider the past of the accused and the possibility of involvement in another crime. Considering the conduct of the applicant, and his involvement in another crime, soon after granting him bail in this Crime, the Court is of the view that the applicant is neither entitled to claim parity nor seek the bail for the length of languishing in jail. Before parting it must be mentioned here that till the applicant got bail in another crime, he never attempted for bail. Be that as it may, for the above reasons, the Court is not inclined to grant him bail. Hence, the application stands dismissed.*

12. Criminal Application No. 1432 of 2023 stands disposed of."

14. In the light of above observations, this application is misconceived and is nothing but a review of the order dated 26th April, 2023 passed by this Court.

15. It is a matter of record that applicant is granted bail in Crime No. 19 of 2017, by this Court in Bail Application No. 1529 of 2022, mainly on the ground of parity and as applicant was behind bars for about 6 years. Merely because applicant is granted bail in subsequent offence, that cannot be a ground to set aside well reasoned order of cancellation of bail, passed by the Trial Court. If released on bail, the applicant is likely to

indulge in another offence and also likely to intimidate witnesses who are likely to depose against him in the pending trials.

16. Apart from above, applicant has criminal antecedents, as six crimes for offences punishable under sections 324, 323, 504, 506, 143, 147, 148, 149, of Indian Penal Code and under sections 3/25 and 4/25 of the Arms Act, are pending against him.

17. In view of the aforestated reasons, no case is made out by applicant to set aside order of cancellation of bail passed by Trial Court.

18. Application being devoid of merit, is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE