



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 859 OF 2024

Kalyan Trimbak Ughade

....Applicant

VERSUS

The State Of Maharashtra And Others

.....Respondents

.....

Mr. A.V. Lavte, Advocate for applicant.

Mr. S.B. Jadhav, APP for respondent No. 1-State.

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 05th MARCH, 2024

ORDER :

1. By this application filed under section 439(2) of Cr.P.C., applicant seeks cancellation of bail granted to respondents No. 2 and 3, on the ground that they have breached condition No. 5 of bail order.

2. Respondents No. 2 and 3 are accused in C.R. No. 242/2017, registered with Bidkin Police Station, Aurangabad, for offences punishable under sections 143, 147, 148, 149, 307, 324, 323, 452, 504, 506 of the Indian Penal Code. While releasing respondents No. 2 and 3 on bail, Sessions Court imposed a condition that "applicants are further directed not to commit offence of similar nature of which they are accused."

Bhagyawant Punde

3. Applicant filed application for cancellation of bail before the Sessions Court contending that respondents No. 2 and 3 have abused and assaulted applicant and threatened to kill him. For that, Non Cognizable Report No. 66/2023 is lodged by applicant at Bidkin Police Station. In the said incident dated 23.01.2023, respondents assaulted uncle of informant.

4. Trial Court has rejected the application by relying on the decision of this Court in Application for Cancellation of Bail No. 180/2021 (Subhash Shivram Hiwale Vs. Kanifnath Manik Mavas), dated 14.03.2022, wherein it is held that;

"6, The applicant has now come with a case that threat was given to him for taking the case back and no-cognizable offence has been registered on 07.08.2021. It has not been brought on record either by the applicant or by the prosecution that the police had taken further action in the nature of permission under Section 155(2) of Cr.P.C. for the inquiry nor the applicant had filed any private complaint before the concerned Magistrate. When the authenticity of the complaint which has been treated as non-cognizable has not been tested, this Court cannot curtail the liberty of the respondent No.1 on such ground. Hence, the application therefore stands. Rejected."

5. Learned advocate for applicant strenuously urged that the Sessions Court has ignored the condition No. 5 in the bail order and has erred in rejecting the application for cancellation of bail.

6. Perusal of record indicates that trial has already commenced and merely because non cognizable case is registered against respondents No. 2 and 3, that cannot be a ground to cancel the bail granted to respondents No. 2 and 3 in the year 2017. Overwhelming reasons are necessary for cancellation of bail, which are not made out by applicant in the present matter. Sessions Court has passed well reasoned order, which is not liable to be interfered with in the present case. Application being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI, J.]