



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

75 APPLICATION FOR CANCELLATION OF BAIL NO. 79 OF
2024

DIPAK JAMNADAS BHUREWAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocates for Applicant : Mr. Karad Atul M., Mr. Kulkarni G. N.
APP for Respondent/s-State : Mr. S. B. Narwade.
Advocate for respective Respondents : Mr. Bhosle Pratik A.
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CORAM : S. G. MEHARE, J.
DATE : 29.07.2024

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondent/State and learned counsel for respondents.
2. The complainant moved this application for cancellation of bail granted to the accused/respondent Nos.2 and 3, dated 09.05.2024. The crime was registered against the respondents/accused for the offences punishable under Sections 307, 143, 147, 326, 324, 504, and 506, reads with Section 149 of the IPC, Section 4/25 of the Indian Arms Act and Section 135 of the Maharashtra Police Act. Respondents had moved an application before the Additional Sessions Judge for bail under Section 439 of the Cr.P.C. While granting the bail, the Court

considered the facts that the injured was stable and discharged from the hospital. However, merely the victim is undergoing further treatment in another hospital cannot be a ground to deny bail indefinitely when, on other grounds, the accused/applicants are entitled to be released on bail.

3. Learned counsel for the applicant has vehemently argued that the health of the injured was not considered. The prosecutor has specifically objected to the bail on the ground that the injured was still hospitalized in another hospital. There was sufficient material to deny the bail. The offence was grave. However, the learned Trial Court exercised its discretion incorrectly. He would submit that to counter the allegations two days after the incident, a false report was filed against the applicant. The investigation was in progress. Therefore, the Court should not haste in granting bail. He also argued that the order granting bail is perverse and did not consider the facts and the gravity of the offence. Hence, it is liable to be cancelled.

4. To bolster his argument, he relied on the case of *Ajwar Vs. Waseem and another; 2024 SCC OnLine SC 974*.

5. Learned counsel for the accused strongly opposed the application. He submits that the learned Sessions Court, while

granting the bail, has considered the entire material available before the Court. The bail was granted 58 days after their arrest. The Court has correctly considered the facts of material investigation and recovery of the so-called weapon. After the injured was discharged, he was deliberately admitted to another hospital only with a view to seeing the respondents/accused behind bars. The learned Additional Sessions Judge has also considered that the respondents have no antecedents to their discredit. They are not the hardened criminals. The impugned order is neither perverse nor illegal. Therefore, it cannot be said that the discretion has been exercised incorrectly. Hence, application may be dismissed.

6. The order granting bail reveals that the Sessions Court has considered the peculiar facts of the discharge of the injured and also observed that merely undergoing further treatment in another hospital cannot be grounds to deny bail indefinitely. The impugned order reveals that the Court has considered the stage of investigation and the material collected against the accused. In the case of *Ajwar (supra)*, it has been held that where the order granting bail is unreasoned or perverse, the superior Court is always open to interfere in such orders. It has been further observed that if there are serious allegations

against the accused, even if he has not misused the bail granted to him, such orders can be cancelled by the same Court that has granted the bail. The Superior Court can also revoke the bail because the Court below has ignored the material filing on record and has not looked into the gravity of the offence or the impact on society, resulting in an order. Considering the ratio the Hon'ble Apex Court laid down in the above case, the Court has to examine the impugned order. The order is well reasoned, and the material available before the Court was considered. The Court has taken care that the injured has been discharged and he was out of danger. The bail was granted after 58 days after their arrest. No accused shall be incarcerated for an indefinite period. The purpose of keeping him behind bars has been served. The Court did not find that the impugned order was illegal or perverse.

7. Hence, the application has no substance and stand dismissed.

(S. G. MEHARE, J.)

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