



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

937 APPLICATION FOR CANCELLATION OF BAIL NO. 235 OF
2023 IN BA/235/2022

HARSHAL NARENDRA MAHAJAN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Mayure Pramod C.
AGP for Respondent-State : Ms. P. R. Bharaswadkar.
Advocate for Respondent No.2 : Mr. Jagiasi Shyamsunder H.

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CORAM : S. G. MEHARE, J.
DATE : 12.07.2024

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondent-State and learned counsel for respondent No.3.

2. The applicant moved this application for cancellation of bail granted to respondent No.2 by the order dated 30.03.2022.

3. Learned counsel for the applicant would submit that after granting bail, the accused threatened her sister to kill. He threatened her at the Bus Stand on 15.09.2023. She lodged the report of that incident. It was against the unknown person. She

alleged that the person holding the mobile phone numbers mentioned in the FIR sent her messages. Before that N.C., she had registered another N.C. No.424 of 2023 on 16.09.2023, The applicant contends that since the cognizable offence was not registered, she made a complaint with the Superintendent of Police.

4. He would submit that a complaint was very specific that the concerned officer was not listening to her and writing the report as per her say. Learned counsel for the applicant would further submit that after the representation was made to the Superintendent of Police for the same incident, FIR No.265 of 2023 was registered against the applicant. That case is pending before the Court. He would argue that after the release of the applicant, he threatened the first informant and the eyewitnesses to kill them if they would not withdraw the crime registered against them. He would submit that the liberty granted to the applicant has been misused to threaten the witnesses, which is a breach of the bail conditions. The threats were continued. Therefore, there may not be justice. *Prima facie* evidence against them is that they threatened the witnesses. Hence, N.C.s were registered, and the crime has been registered on the same allegations. The applicant has

deliberately violated the bail conditions. Hence, his bail orders may be cancelled.

5. Learned counsel for respondent No.2 would submit that the first informant i.e. a witness, is not consistent about the complaint. At the one hand, she states nothing about the WhatsApp messages. The N.C. does not bear her mobile number on which she had received the obscene messages. She had given the same number for the first time when she placed a representation before the Superintendent of Police on 18.09.2023. He would further argue that nowadays, it is a practice to file N.C. after granting bail to the accused and see them behind bars. Once the N.C. is registered, it is hard to digest that the police could register the FIR based on the same facts. Material contradictions are present in the statement, which raises doubt about N.C's truthfulness. The applicant never violated bail conditions. The allegations were levelled against the other co-accused, against which no application has been filed. The material placed before the Court is not sufficient to believe that the respondent had misused the liberty granted to him and violated the bail conditions.

6. Perused the papers and considered the arguments advanced by the respective learned counsels. The case of the

applicant was based upon two N.C. bearing Nos.424 of 2023 and 425 of 2023. Since the FIR was not registered, the aggrieved person made a representation before the Superintendent of Police, giving some details. However, it appears that the phone No.9579880980 was not mentioned. In N.C. No.424 of 2023, there is no whisper about the obscene messages sent to her on the above cell phone. In N.C. No.425 of 2023, she appears to have made certain improvements and clubbed two things which it could have mentioned while recording the first N.C.

7. Learned counsel for the applicant would submit that the Superintendent of Police did not direct police to register the crime. However, perhaps the applicant may have pressured the police to register the FIR on the same facts as the one on which N.C. was registered. Nowadays, it is a fashion to file false complaints against the accused, who has been granted bail to create grounds for violation of the terms of the bail.

8. This Court has gone through all the papers placed on record. There appears to be substance in the submission of the learned counsel for respondent No.2 that the incident was not completely narrated when First N.C. was registered. However, piecemeal developments have been made to attract serious

crime against the applicant. The statement of the first informant, who allegedly threatened to kill, was inconsistent and different at every stage. So far as the criminal case is concerned, it is registered after recording N.C. on the same facts and is it is subjugated before the Court subject to the test of the veracity of the allegation in which she did not state that she had received the obscene messages from the numbers mentioned in N.C. No.425 of 2023. In that N.C., she gave a new mobile number on which she had received obscene messages from unknown numbers, in which she did not state that she had received the obscene messages from the numbers mentioned in the N.C. No.425 of 2023. In that N.C., she gave a new mobile number on which she had received obscene messages from unknown numbers.

9. After hearing the learned counsels for the applicant and going through the papers, the Court is not satisfied that there was concrete material against respondent No.2 to believe that he violated the bail conditions. Nowadays, it is pretty normal that after granting the bail, the reports are immediately lodged against the accused, indicating that he has violated the bail conditions. Be that as it may, as stated above, the Court is not satisfied that there is sufficient material to believe that the

applicant violated the bail conditions by threatening the eyewitnesses.

10. For the above reasons, the application stands dismissed.

11. It is made clear that these observations are restricted to the present application only.

(S. G. MEHARE, J.)

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