



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

CRIMINAL APPLICATION NO.2 OF 2023

(Mohini Kashinath Wankhade Vs. State of Maharashtra and ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.D. Chande, Advocate for the applicant.
Mrs. M.H. Deshmukh, A.P.P for the State.
Mr. N.P. Singhania, Advocate for respondent No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 16, 2024.

Heard.

2. Present application is preferred by the applicant who is the original complainant for cancellation of bail which is granted to respondent Nos.2 to 10 by orders dated 03/09/2022, 21/09/2022 and 06/12/2022 in various applications filed by the respondents.

3. The accusation against the respondents was on the basis of report lodged by the present applicant on 08/07/2022. It is alleged that the applicant is running a poultry farm at Mouza Wagholi. She got acquaintance with one Deepak Pawar resident of Mumbai which resulted into love affair. Thereafter Deepak Pawar and she started residing as husband and wife. The sister of the complainant and Deepak Pawar invested money to run a poultry farm at Wagholi and the complainant was looking after the said work. On 04/01/2022, Deepak Pawar had a heart attack and expired. On 05/07/2022, respondent No.2, who is wife of the deceased Deepak Pawar visited

the poultry farm. Then again on 06/07/2022, she came along with other respondents and assaulted the applicant, complainant and her mother. It is alleged that the non-applicants also carried their blood stained clothes and burnt them and all the non-applicants also snatched the gold ornaments and cash amount of Rs.1,20,000/- as well as some other articles. On the basis of said report police have registered the said crime against the present non-applicants. After registration of the crime, the non-applicants approached to the trial Court for grant of anticipatory bail. Learned trial Court allowed the application and all the non-applicants are released on anticipatory bail in the event of their arrest, except Bail Application No.1071 of 2022. It is submitted by the learned Counsel for the applicant that learned trial Court has not considered the gravity of the offence and merely on the basis of that FIR is lodged after two days released the non-applicants on anticipatory bail in the event of their arrest. Learned trial Court had also not applied his mind towards the gravity of the offence and also not considered the parameters for grant of anticipatory bail and allowed the application. Learned trial Court ought to have considered that not only the complainant and her family members were assaulted but gold ornaments and huge cash amount of Rs.1,20,000 is also snatched by the present non-applicants, and therefore, their custodial interrogation was required. However, learned trial Court only considered that there is a delay in lodging of the FIR

and released the non-applicants on bail in the event of their arrest. He submitted that considering the order passed by the learned trial Court which is without application of mind which requires to be set aside and the bail granted to the present non-applicants deserves to be cancelled.

4. Learned Additional Public Prosecutor also supported the said contention and prays for cancellation of the bail. On the contrary, learned Counsel for the non-applicants submitted that learned trial Court has considered the entire material collected during the investigation and thereafter, after application of mind, released all the non-applicants on bail in the event of their arrest. He invited my attention towards para No.9 and 10 of the order passed in Criminal Bail Application No.860/2022 and the other applications. He submitted that well settled law is that while considering the application for cancellation of bail Court has to consider the parameters which are different. It is settled law that the order granting the bail shall not be casually interfered with but for cancellation of the bail overwhelming and supervening circumstances are required. He further submitted that considering the grounds mentioned in the application, there are no supervening or overwhelming circumstances pointed out to cancel the bail.

5. I have heard learned Counsel for the parties. Perused the order passed by the trial Court as well as the

grounds of the application. There is no dispute as to the fact that present non-applicants are prosecuted in connection with Crime No.415/2022 registered under Section 143, 147, 148, 452, 324, 323, 506 read with Section 149 of the Indian Penal Code. As per the allegation against the present non-applicants that the complainant Mohini Kashinath Wankhade is running a poultry farm at Mouza Wagholi. She got acquaintance with one Deepak Pawar resident of Mumbai which resulted into a love affair and they started residing as husband and wife. The sister of the complainant and the Deepak Pawar invested money to run a poultry farm at Wagholi and complainant was looking after the work. On 05/07/2022, non-applicant No.2 – Meena Deepak Pawar who is the wife of the deceased Deepak Pawar visited the poultry farm, assaulted the applicant as well as her mother and she lodged the report. On the basis of the said report, the investigation was carried out and during investigation, the statements of various witnesses are recorded. While considering the application for grant of bail in the event of the arrest, the trial Court has considered the case diary and observed that the alleged incident has taken place on 06/07/2022 at about 5:00 p.m. whereas on 08/07/2022, the police were called by some farm labours by dialling number 112. The police accompanied by lady police arrived at the spot and thereafter the report was given. Thus, the complainant has not approached to the police station at her own to

lodge the report. It was the other farm labours who have called the police and thereafter she has put her grievance before the police.

6. Learned Counsel for the applicant pointed out that initially she has lodged the report on the basis of which the N.C. is registered. The recitals of the N.C. report shows that non-applicant No.2 came at the poultry farm and threatened the complainant that the property belongs to her husband and she should vacate the same. There is no such allegation regarding the snatching of the amount. The incident is dated 06/07/2022 at about 5:00 p.m. Present crime is also registered regarding the incident dated 06/07/2022. Thus, learned trial Court has considered that there was no complaint even it is accepted that she has approached to the police station and lodged the report. It is not alleged that the present non-applicants have either snatched the cash amount or gold ornaments. Learned trial Court has also considered that in the oral complaint dated 08/07/2022 there is no mention about taking away of ornaments and cash amount and other articles forcibly by the present applicant. The statements of the witnesses recorded on 10/07/2022 i.e. after four days of the incident and it also does not mention that the applicants took away the ornaments, cash etc. from the house of the complainant. The medical examination and certificates also considered by the trial Court wherein it was mentioned that the age of the injury is more than three to four days. The witnesses Geetabai and Snehal

were examined on 10/07/2022 where no age of injuries is mentioned.

7. Thus, the trial Court has considered the entire aspect and thereafter came to the conclusion that considering the allegations which were not initially included in the FIR and the statements and released the non-applicants on bail. It is well settled that while considering the application for cancellation of bail, Court has to see whether the trial Court has ignored the relevant part of the investigation and granted bail or whether there are supervening and overwhelming circumstances to cancel the bail. Both aspects are absent in the present case. On the contrary, it appears from the order passed by the trial Court that trial Court has granted bail after application of mind, after considering the relevant material. Thus, no ground is made out for cancellation of bail. There are no supervening or overwhelming circumstances pointed out, and therefore, the order passed by the trial Court cannot be interfered with. In view of that, the application deserves to be rejected.

8. The application is rejected accordingly.

9. The trial Court shall not be influenced by the observations made by this Court.

(URMILA JOSHI-PHALKE, J.)