



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

CRIMINAL APPLICATION NO.7 OF 2024

(Pravin Ramchandra Supare Vs. The State of Maharashtra and anr.)

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

Court's or Judge's Order

Mr. M.N. Ali, Advocate for the applicant.
Mrs. H.N. Prabhu, APP for the State.
Mr. A.M. Chandekar, Advocate for respondent No.2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JULY 29, 2024.

By preferring this application, the applicant/original complainant is seeking cancellation of bail of the accused - Suresh Maroti Chandankhede on an allegation that despite he was restrained from entering into the vicinity of Dongargaon, Taluka Samudrapur, District Wardha he entered in the village and threatened the witnesses to withdraw the complaint.

2. Learned Counsel for the applicant submitted that while releasing the present accused who is non-applicant No.2 in the present case in connection with Crime No.351/2023 registered at police station Samudrapur, District Wardha for the offence punishable under Sections 307 and 504 read with Section 34 of the Indian Penal Code. This Court has imposed the condition that the applicant shall not enter in the village Dongargaon, Taluka Samudrapur, District Wardha till the conclusion of the trial but non-applicant No.2 has entered

in the vicinity on 09/12/2023 and threatened the witnesses to withdraw the complaint. It is complete a breach of the condition imposed by this Court while releasing him on bail. He has also tamper the prosecution witnesses by threatening them, and therefore, bail granted to the accused/non-applicant No.2 deserves to be cancelled as he misused his liberty granted to him.

3. Learned APP supported the said contention and submitted that the statements of the eye-witnesses sufficiently shows that non-applicant No.2 has contravened the terms and conditions imposed by this Court. In view of that, the bail granted to the non-applicant No.2 deserves to be cancelled whereas learned Counsel for non-applicant No.2 submitted that supervening and overwhelming circumstances are not sufficient to cancel the bail to the present accused. The considerations for grant of bail and considerations for cancellation of bail are different.

4. It is well settled that once bail granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. A very cogent and overwhelming circumstances are necessary for an order directing cancellation of bail. In the case of ***Dolat Ram and ors vs. The State of Haryana, [1995(1) SCC 349]***, the

Honourable Apex Court laid down grounds for cancellation of bail, which are as under:

- (i) interference or attempt to interfere with the due course of administration of Justice;
- (ii) evasion or attempt to evade the due course of justice;
- (iii) abuse of the concession granted to the accused in any manner;
- (iv) possibility of accused absconding;
- (v) likelihood of/actual misuse of bail, and
- (vi) likelihood of the accused tampering with the evidence or threatening witnesses.

5. It is no doubt true that cancellation of bail cannot be limited to occurrence of supervening circumstances. The court has discretion to cancel the bail of an accused even in the absence of supervening circumstances, in following circumstances:

- a) where the court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record;
- b) where the court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the

witnesses especially when there is prima facie misuse of position and power over the victim;

c) where the past criminal record and conduct of the accused is completely ignored while granting bail;

d) where bail has been granted on untenable grounds;

e) where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.

6. Thus, where a court considering an application for bail fails to consider relevant factors, the court has discretion to cancel the bail. While cancelling the bail, it has to be seen, whether the order granting bail suffers from non-application of mind or is not borne out from prima facie view of the evidence on record. Thus, it is necessary for the court to see, whether on the basis of record there existed a *prima facie* case or reasonable ground to believe that the accused has committed crime.

7. Having heard learned Counsel appearing for both the parties. Perused the entire record which shows that Crime No.1011/2023 is registered under Section 195-A of the IPC on the allegation that on 09/12/2023 at about 11:00 a.m. when the complainant was proceeding towards his agricultural field the present accused met him

and threatened him that not to depose against him otherwise he would be killed. Thereafter on 11/12/2023, he approached to the police station and lodged the report.

8. Learned APP submitted on record the statement of the complainant as well as the other witnesses to show that the present non-applicant No.2 had been to the vicinity of Dongargaon, Taluka Samudrapur, District Wardha. It is submitted by the learned Counsel for the applicant that he is arrested from his house at Samudrapur which sufficiently shows that the non-applicant No.2 was present in his house at Samudrapur though he was restrained from entering into the village Dongargaon, Taluka Samudrapur, District Wardha.

9. After perusal of the arrest panchanama it shows that the place of arrest mentioned by the investigating agency is Samudrapur police station. Therefore, the contention of the learned Counsel for the applicant that he is arrested from his house at Daongargaon is not substantiated by the arrest panchanama. As far as the other grounds are concerned the report is lodged after two days and no explanation is put forth by the complainant why he has lodged the report after two days regarding the threatening by the present accused to him. It is well settled that overwhelming and superwhelming circumstances are not sufficient to cancel the bail of the present accused but there should be a material to show that he has misused his liberty which is

granted to him. Thus, considering the grounds mentioned by the applicant for cancellation of bail which are not substantiated by the material, the application deserves to be rejected.

10. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)

**Divya*