



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

CRIMINAL APPLICATION (BA) NO.273 OF 2024
(Amol s/o Uddhavrao Sakhare Vs. 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. N.D. Dawda, Advocate (appointed) for the applicant.
Mr. N. Autkar, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MAY 6, 2024.

By this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure and challenged the order dated 31/08/2023 in Sessions Case No.80/2023 whereby the Sessions Court, Gadchiroli has cancelled the bail of the applicant.

2. The applicant came to be arrested when the bail granted to the present appellant was cancelled on 26/09/2023 as he was contravened the terms and conditions imposed by the Sessions Court while releasing him on bail.

3. The applicant was arraigned as an accused in connection with Crime No.146/2023 registered at police station Armori, District Gadchiroli for the offence punishable under Section 307 of the Indian Penal Code. As per the prosecution case, the injured is the uncle of the complainant. On 25/04/2023 when the complainant was present at his house at around 8:15 p.m. one Nitin Khobragade and one Gurnule told the complainant that

the applicant is beating the victim by stick. The complainant immediately rushed and saw that the applicant is assaulting the injured with stick in front of Nitin Pan Centre. Due to the assault, the injured was lying on the ground in a pool of blood and the applicant left the place. On the basis of said report, the crime was registered. During investigation, the medical certificate of the injured was collected and the charge-sheet was filed. The applicant approached to the Court for grant of bail.

4. Learned Sessions Court granted bail to the applicant on executing P.R. bond of Rs.50,000/- with one or more sureties. Considering the statements of the witnesses, the condition was imposed that the accused shall not enter into the village Manapur, Tahsil Armori, District Gadchiroli where the injured is residing and he shall not tamper the prosecution evidence. Said bail order was passed on 31/08/2023, subsequent to the passing of the bail order, the applicant entered into the village and started residing in the village contrary to the terms and conditions imposed by the Sessions Court, therefore, the application was filed by injured for cancellation of bail. Learned trial Court considered the entire facts and observed the statements of the witnesses and the non-cognizable report filed against the present applicant and observed that without seeking any permission from the Court, the applicant entered into the village and jumped from the bail conditions, and therefore, cancelled his bail for committing breach of conditions.

5. Being aggrieved with the same, present application is filed by the applicant on the ground that as the health of his parents was not good, therefore, he entered into the village, he be released on bail and he would abide by all the conditions imposed by this Court.

6. I have heard learned Counsel for the applicant. He endorsed the same contentions and submitted that due to the ill-health of the parents, he entered into the village. There was no other intention to enter into the village. Now, investigation is already completed and charge-sheet is filed and considering the fact that there is nobody to look after his parents, he be released on bail.

7. Learned Additional Public Prosecutor strongly opposed the application on the ground that during investigation the Investigating Officer has recorded the statements of various witnesses which shows that after releasing the applicant on bail on the condition that he should not enter into the village, the applicant not only entered into the village to take care of his parents but he started residing there without seeking any permission from the Court. The statements further reveals that the applicant is of a hot tempered and addicted to the bad voice and the witnesses have raised the apprehension that he may cause any injury to any other villager under the influence of liquor. After considering the facts that the applicant was arraigned as an accused of the offence

punishable under Section 307 of IPC. The recitals of the FIR shows that the old aged person of 60 years was assaulted by the present applicant by means of stick. The injured was lying in a pool of blood, he subsequently taken to the hospital. Fortunately he survived from the said injury. Considering the fact that the investigation is completed and charge-sheet is filed, the applicant was released on bail by the Sessions Court by imposing condition that he shall not enter into village Manapur, Tahsil Armori, District Gadchiroli. Contravening the said terms and conditions imposed by the Sessions Court on 31/08/2023, the applicant entered into the village, and therefore, the injured filed an application for cancellation of bail. The ground raised by the injured is that the applicant has not only entered into the village but he has threatened him that he would kill him and also abused him. On the basis of the report lodged by the injured, the non-cognizable report was filed. During the enquiry of the non-cognizable report, the Police Station Officer Armori has recorded the statements of the witnesses from the village which shows that the applicant has not only entered into the village but he started residing in the village by contravening the terms and conditions and without seeking any permission from the Court. Thus, intentional contravention of the terms and conditions are revealed from the investigation papers. Now, the trial is already at the stage of the evidence. Considering the conduct of the present applicant that he has not only

entered into the village for the purpose of taking care of his parents but he started residing there sufficiently shows his intention of contravention of the terms and conditions. Considering all the above facts, the application deserves to be rejected.

8. Hence, the application is rejected accordingly.

9. The fees of the appointed Counsel be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)

**Divya*