



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

CRIMINAL APPLICATION NO.65 OF 2022

(The State of Maharashtra Vs. Sau. Meera w/o Santoshrao Koltakke and ors.)

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

Court's or Judge's Order

Ms H.N. Prabhu, APP for the State.
None for the respondents.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- NOVEMBER 18, 2024.

Inadvertently, the Criminal Application
No.66/2022 is tagged along with this application.

2. The same be de-tagged.

3. Heard.

4. By this application, the applicant/State is seeking cancellation of bail granted to the non-applicants in connection with Crime No.134/2022 registered at police station Rajapeth, Amravati for the offences, punishable under Section 307, 353, 332, 143, 147, 148, 109, 120-B, 427, 500 and 501 read with Section 149 of the Indian Penal Code.

5. The crime is registered on the basis of report lodged by one Pravin Astikar, who is the Commissioner of Municipal Corporation, Amravati alleging that on 09.02.2022 at about 9:35 a.m. the co-accused Malani on call informed him that, there is a problem of waste water

accommodation in the underpass of Rajapeth area and due to which the accidents are taken place. So he called the complainant for inspection at the spot. Accordingly, the complainant i.e. Pravin Astikar went at there 1:15 p.m. When he was inspecting underpass at that time one women came having possession of ink along with her and throw it on his person. The bodyguard of the informant attempted to restrain said women at the relevant time, two other women came there and they have also thrown ink on the person of the complainant. It is further alleged that at the relevant time, other co-accused also came there holding screwdriver and gave a blow of screwdriver on the person of the complainant, and therefore, he sustained the injuries. On the basis of the said report, police have registered the crime against the present non-applicants. After registration of the crime, they approached to the Sessions Court for grant of bail in the event of their arrest.

6. Learned Sessions Court had considered the submissions made on behalf of the State as well as the non-applicants and come to conclusion that as far as the use of screwdriver is concerned which is by the absconding accused. As far as the present applicants are concerned there is only allegation that they have thrown the liquid like ink on the person of the complainant. The injuries sustained by the complainant are also simple in nature. It is further observed that as far as the custodial interrogation of the non-applicants is concerned which is

not required as there is no allegation against them that they have caused any injuries to the informant, and therefore, he has considered the bail application and released them on anticipatory bail.

7. Being aggrieved and dissatisfied with the same, present application is filed by the State on the ground that the learned Sessions Court by ignoring the investigation papers released the present non-applicants on anticipatory bail. In fact, the right of investigation was affected due to the grant of anticipatory bail to the present non-applicants. It is further contended that non-applicants were absconding from the registration of the FIR. They have also kept their mobile phone on switched off mode. The investigating agency could not trace them. Subsequently, they have surrendered their mobile phones but they have deleted the relevant data, and therefore, the custodial interrogation of the present non-applicant was required but the learned Sessions Court has not considered the same and granted the anticipatory bail. In view of that, the bail granted to the present non-applicants deserves to be cancelled and the State or the prosecution agencies to be granted with an opportunity to investigate the matter as far as the conspiracy is concerned.

8. Learned APP for the State submitted that non-applicants have thrown the ink on the person of the Public Servant who was serving as a Commissioner of Municipal

Corporation Amravati at the relevant time. She further submitted that there was a conspiracy between the present non-applicants and other co-accused as far as the alleged incident is concerned and in furtherance of the common object of the said conspiracy the Commissioner was attacked by the present non-applicants and other co-accused. The Commissioner has also sustained the injuries though it is simple in nature in the said incident, and therefore, the custodial interrogation of the present non-applicants was required. In view of that, the bail granted to the present non-applicants deserves to be cancelled. She further invited my attention towards the order passed by the learned Sessions Judge and submitted that by ignoring the investigation material, the discretion was used in favour of the non-applicants and they are released on anticipatory bail. In view of that, the application deserves to be allowed and bail granted to the present non-applicants in the event of their arrest deserves to be cancelled.

9. I have heard learned APP for the State. None present for the non-applicants. Perused the order passed by the Sessions Court as well as the other investigation papers and reply filed by the non-applicants. On perusal of the order passed by the Sessions Court it reveals that the allegations against the present non-applicants is that they have thrown the ink on the person of the informant who was serving as a Commissioner of Municipal Corporation,

Amravati. On 09.02.2022 when he had been to inspect the spot i.e. underpass as he has received the complaint of problem of waste water accommodation in the underpass of Rajapeth area. On perusal of the order passed by the Sessions Court it reveals that the Sessions Court has considered the role of the present non-applicants and it is observed that as far as the role of the present non-applicants are concerned which is only to the extent of throwing the ink on the person of the informant. As far as the assault by the screwdriver is concerned which was alleged against the other co-accused who was absconding at the relevant time. Now, investigation is already completed and charge-sheet is already filed. As far as the ground raised by the State for cancellation of bail is concerned that the learned Sessions Judge has not considered the material which is collected during the investigation and the aspect that the custodial interrogation of the non-applicants is required for the investigation purpose. If the said submission is taken into consideration in the light of the investigation papers a very limited role is attributed to the present non-applicants i.e. only to the extent of throwing the ink on the person of the informant. As far as the other allegation is concerned that the assault by the screwdriver which is against the co-accused. It is well settled that the considerations for grant of bail and the considerations for cancellation of bail are different. Very cogent and overwhelming circumstances are necessary for an order

directing cancellation of bail which is already granted. Generally speaking the grounds for cancellation of bail broadly are :

(i) interference or attempt to interfere with the due course of investigation or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner.

10. The satisfaction of the Court on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, the bail was 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 trial. If this principles are applied to the present matter, admittedly no case is made out by the prosecution for cancellation of bail. In view of that, the application deserves to be rejected.

11. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)