



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPLN) NO.34 OF 2023

The State of Maharashtra, Through Police Station Officer, Police Station,
Vasant Nagar Pusad, District Yavatmal

Vs.

Yuvraj Baliram Jadhav

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. Shamshi Haider, APP for applicant /State.
Mr. P. S. Thakur, Counsel for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 05/12/2024

1. By this application, the State is seeking cancellation of bail on the ground that despite the earlier bail application was rejected and the involvement of the present non-applicant is in the offence punishable under Section 395, 120-B, 420, 406 read with Section 34 of the Indian Penal Code, the Sessions Court has released the non-applicant on bail. It is further contended that there is material evidence against the present non-applicant to show his involvement in the offence. He is also identified during the identification parade, but the learned Sessions Court has not considered the same and released him on bail which is a perverse order and therefore, bail granted to the present non-applicant deserves to be cancelled.

2. Heard learned APP for the State. Perused the recitals of the FIR as well as the order passed by the Sessions Court. Learned APP submitted that earlier bail application was rejected by the learned Sessions Court as the involvement of the present non-applicant is revealed in the said offence. The Sessions Court has also considered the Judgment of the Hon'ble Apex Court in the case of **Y. S. Jagan Mohan Reddy Vs. Central Bureau of Investigation, in Criminal Appeal No.730/2013 (Arising out of SLP (Crl) No.3404/2013 [S.C.]**. She submitted that the involvement of the present applicant is in the offence which is of the nature of economic offence. He is identified during the identification parade, some amount is also recovered from him. Despite the above evidence is on record, the learned Sessions Court ignored the same and released the non-applicant on bail. Learned APP further submitted that CCTV footage and CDR reports are also there, which are not considered. In view of that the bail granted to the present non-applicant deserves to be cancelled.

3. Per contra, learned Counsel for the non-applicant supported the order passed by the learned Sessions Court and submitted that the initial application was rejected as the investigation was at the initial stage and subsequent application is allowed considering that investigation is completed, the amount is already recovered, the identification

parade is also held and as far as the offence punishable under Section 420 of the Indian Penal Code is concerned for which punishment up to seven years is provided. He submitted that there is no allegation that present non-applicant has either misused the liberty or induced or pressurized the any witnesses. Thus, considering the same, the application deserves to be rejected.

4. After hearing both the sides and on perusal of investigation papers, it reveals that initially the FIR was lodged against the present non-applicant and other co-accused on an allegation that one unknown person approached to the informant and handed over to him the forged currency notes. It further reveals that it was promised to him that if he pays Rs.4 Lakh, then the said person will give him the amount of Rs.16 Lakhs, and obtain Rs.4 Lakh from him and handed over to him the forged or counterfeit currency notes. On the basis of the said report, police have registered the crime against the present non-applicant and another co-accused. During the investigation, the non-applicant was referred for the identification parade, the amount was also recovered from the non-applicant and after completion of the investigation the charge-sheet is filed. After filing of the charge-sheet, he again filed an application for grant of bail. The learned Sessions Court has considered that the involvement of the present non-applicant is revealed in the offence. It was

further considered that identification parade is already held and the present non-applicant is identified. Thus, the Court has considered that investigation is already completed and charge-sheet is already filed. The Court has also considered that the general rule is that bail is a rule and jail is an exception. The factor of the punishment is also considered by the Court and it is held that a police person *prima facie* seen to be involved in the dacoity and a criminal breach of trust and therefore, it is a serious offence, but considering now the investigation is already completed and charge-sheet is filed and the applicant is in the jail since 28.01.2023 i.e. one and half month, his further incarceration is also not required and by observing all these aspects, merits as well as the considerations for grant of bail, the non-applicant is released on bail. Thus, the contention raised in the application that earlier bail application was rejected then also the learned Sessions Court has allowed the subsequent application and not assigned the reason while releasing him on bail, appears to be not sustainable because the order passed by the learned Sessions Court shows that the detailed reasoning is assigned by the learned Sessions Court, while granting him bail.

5. The considerations for grant of bail and the considerations for cancellation of bail are different. At the stage of the cancellation of bail, Court has to

consider whether there are supervening and overwhelming circumstances to cancel the bail. The considerations are also laid down by the Hon'ble Apex Court in the case of ***Deepak Yadav Vs. State of U.P. and another*** reported in ***2023 (2) Mh. L. J. (Cri) (S.C.) 196***, wherein also it is held that there is certainly no straight jacket formula which exists for courts to assess an application for grant or rejection of bail but the determination of whether a case is fit for the grant of bail involves balancing of numerous factors, among which the nature of the offence, the severity of the punishment and a *prima-facie* view of the involvement of the accused are important.

6. The Hon'ble Apex Court laid down illustrative circumstances where the bail can be cancelled are as follows:-

- i) Where the Court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record.
- ii) 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.
- iii) Where bail has been granted on untenable grounds.

- iv) Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.
- v) Where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified.
- vi) When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case.

7. In the light of the above well settled principles, the State has not made out a case for cancellation of bail. Thus, the application is devoid of merits and deserves to be rejected. Accordingly, the application is rejected.

(URMILA JOSHI-PHALKE, J.)