



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

CRIMINAL APPLICATION (APPLN) NO. 37 OF 2023

Jyoti Ashok Wankhede V/s State of Maharashtra and others

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

Court's or Judge's Order

Mr. M.V.Rai, counsel for the applicant.

Mr. A.B.Badar, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/04/2024.

1. By this application, the applicant is seeking cancellation of the bail granted to the non-applicant Nos. 2 to 5. The non-applicants are arraigned as an accused in connection with Crime No. 138/2019 registered for the offence punishable under Sections 143, 147, 148, 302, 324, 452, read with Section 149 of the Indian Penal Code, 1860.

2. As per the allegation, the younger son of the informant namely Ashish Wankade was having a love affair with one Sakshi who is the daughter of Accused No.1 - Bharat Shegaokar, and this fact of the love affair came to the notice of non-applicant-Bharat and he along with the other non-applicant visited the house of the informant and threatened her that, if deceased Ashish dares to marry with his daughter, then he along with the other co-accused will kill Ashish and deceased-Ashish and also other family members due to which, all the family members were under the fear. The said Sakshi called Ashish and that her parents have also threatened her

that if she did not listen to them, then they would also kill her. Thereafter, she used to call the deceased. It is further alleged that Ashish and the said Sakshi have performed the marriage and this fact came to the knowledge of the accused-Bharat, on the same day i.e. on 22/03/2019. Thereafter, all the accused came to the house of the informant by holding a knife, iron pipe, and bamboo sticks in their hands and assaulted the Ashish by means of the knife on his chest, and stomach and caused his death. On the basis of said report, the police have registered the crime.

3. The non-applicants approached this Court for grant of bail by filing an application i.e. Criminal Bail Application (BA) No. 681/2019. This Court while granting the bail, imposed the condition that the applicants are directed not to enter the territorial jurisdiction of Shegaon City, District Buldhana, till the trial is over. Subsequently, the applicants have filed the application for relaxation of the condition, which was rejected by this Court on 24th August 2021. This application is filed on the ground that despite the condition imposed on the present non-applicants not to enter into the vicinity of Shegaon, their application for relaxation of the condition is rejected. They entered into the vicinity, threatened the witnesses, and contravened the terms and conditions imposed on them. They have jumped from the bail conditions and therefore, the bail granted to them deserves to be cancelled.

4. Notice of the said application is served on the non-applicant Nos. 2 to 5 but they failed to appear. Considering their absence, again notice was issued but they were not traceable, and therefore, notice was not served upon them.

5. Heard learned counsel Mr. M.V.Rai for the applicant submitted that filing of the NC Report by the informant and the various statements recorded by the investigating officer shows that present non-applicants have contravened the terms and conditions imposed by this Court. Thus, they have jumped from bail conditions and therefore, the bail granted to them deserves to be cancelled. He further placed reliance on one affidavit sworn by Punjabrao Sitaram Shegaokar before the Executive Magistrate on 26/06/2023 which sufficiently shows that by contravening the terms and conditions, the present non-applicants entered into the vicinity of Shegaon City and prays for cancellation of bail.

6. Learned APP supported the said contention and placed on record, the statements of the witnesses namely Suraj Manoj Shegaokar, Bhaskar Vijarao Shegaokar, and Prashant Nanaram Shegaokar, which shows that the non-applicants entered into the vicinity of Shegaon and stay their for four to five days. Thus, this statement is also as per submission of the learned APP, sufficient to show that the non-applicants have contravened the terms and conditions and prays for cancellation of the bail.

7. After hearing learned counsel for the applicant and learned APP for the non-applicant/State, perused the record.

From perusing the record, it reveals that while releasing the present non-applicant Nos. 2 to 5 on bail and by considering the apprehension that there is every possibility of tampering of the witnesses, the condition was imposed that they shall not enter the territorial jurisdiction of Shegaon City District Buldhana till culmination of the trial. They entered into the vicinity of Shegaon City on 02/04/2023 as well as the statement of the witnesses also shows that prior to 15 days on 07/07/2023, they entered into the vicinity of Shegaon and stayed there for four to five days and thereafter, they left the place.

8. Thus, this statement and NC report filed by the informant sufficiently shows that the non-applicants have contravened the terms and conditions imposed on them while releasing them on bail. It is well settled that the considerations for grant of bail and cancellation of bail are different, but when the specific condition is imposed on the present non-applicants not to enter into the vicinity, and the material produced on record sufficiently shows that they have contravened the terms and conditions and jumped from the bail conditions, in that view of the matter, application deserves to be allowed. It is pertinent to note that, this condition is contravened by the present non-applicants when their application for relaxation of the condition is also rejected.

9. Considering the conduct of the non-applicants and the fact that they have not only contravened the conditions

but they jumped from the conditions imposed on them. In view of the above facts and circumstances, application deserves to be allowed. Accordingly, I proceed to pass the following order:

- a] The criminal application (APPLN) No. 37/2023 is allowed and disposed of.
- b] The bail granted to the present non-applicants vide order dated 05/09/2019 is hereby cancelled.

[URMILA JOSHI-PHALKE, J.]