



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

CRIMINAL APPLICATION (APPLN) NO. 86 OF 2023

State of Maharashtra Vs Shaukat Jafar Ali

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

Court's or Judge's Order

Mr. H.D. Dubey, APP for applicant/State.

Mr. R.R. Vyasm, counsel for non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 25/11/2024.

1. By this application, the State is seeking cancellation of bail which is granted to the non-applicant in connection with Crime 735/2023 registered under Section 120(B), 193, 198, 209, 420, 465, 466, 467, 468, 471 read with Section 34 of the Indian Penal Code, 1860.

2. The non-applicant is arraigned as an accused on the basis of the FIR lodged by C. Satiskumar. Wherein it is alleged that his grandfather Dr. T.S. Naidu was the owner of property sheet No. 20, city survey No. 3/41 situated at Panthar Chouk, Guarashkan Ward, Wardha. The said Dr. T.S. Naidu died in the year 1957 at Secunderabad. However, in the year 1997, Rajesh Jaiswal was accused of hatching a conspiracy, and in furtherance of a common intention, he prepared bogus Will of Dr. T.S. Naidu pertaining to the said property. The bogus Will was signed by the witnesses Piyush Shantilal Shaha and Kamlakar Narayan Sainkar. The present non-applicant is an advocate, and he is representing accused Rajesh Jaiswal in

various civil and criminal cases. He had signed a bogus Will of Dr. T.S. Naidu making an endorsement that he knows the executant of deed i.e. T.S. Naidu, resident of Wardha. Thus, the non-applicant identified a person on 04/04/1997, who actually died in the year 1957. Thus, the non-applicant signed bogus document, i.e. Will and identify the unexisting executant. Hence, he is also involved in the criminal conspiracy.

3. After registration of the crime, the non-applicant approached the Sessions Court, and the Sessions Court has considered the entire investigation papers and released him on bail.

4. Being aggrieved and dis-satisfied with the same, the present application is filed by the State for cancellation of bail on the ground that his custodial interrogation is required to interrogate as to the conspiracy and the preparation of the said Will. In view of that, the bail granted to the non-applicant No.2 deserves to be cancelled.

5. Heard learned APP for the State, he reiterated the said contention and submitted that considering the non-applicant is a lawyer by profession and he knows the consequences of his act. He signed by giving an endorsement that he knows the executant, who was not existing. Thus, the role of the non-applicant is very serious in nature, and the custodial interrogation is required, and therefore, the bail granted to the non-applicant deserves to be cancelled. He

further submitted that the learned Sessions Court has not considered this aspect and released him on bail by ignoring the circumstances under which the crime is committed. In view of that, the application deserves to be allowed.

6. Learned counsel for the non-applicant, Mr. R.R. Vyas, submitted that overwhelming and supervening circumstances are required for cancellation of bail. Admittedly, there is no allegation that non-applicant has not cooperated with the investigating agency. There is no allegation that the non-applicant has prepared the said Will, only allegation against the non-applicant is that he has made an endorsement. After preparation of the Will, he knows the executant. Thus, he is not a person who is involved in the preparation of the Will, and therefore, his custodial interrogation is required. The Sessions Judge has considered all these aspects and specifically observed in para-10 regarding the role of the advocate and also observed that there is no prima-facie material showing that the present non-applicant was a member in the conspiracy to design the bogus document of Will-Deed. Therefore, it cannot be said that he is a member of that crime and released him on bail.

7. He submitted that considering the observation of the Sessions Court on the basis of the investigation papers, no grounds are made for cancellation of bail. In view of that, the application deserves to be rejected.

8. After hearing both sides and on perusal of the order passed by the learned Sessions Court and the law settled by the Hon'ble Apex Court as far as the cancellation of bail is concerned, the considerations for cancellation of bail are that it can be done in cases where the order granting bail suffers from serious infirmities resulting in a miscarriage of justice. If the court granting bail ignores relevant material indicating prima facie involvement of the accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in cancelling the bail.

9. The material available does not justify arriving at the conclusion that the order impugned suffers from non-application of mind or the reason for granting bail is not borne out from a prima-facie view of the evidence on record. The offence alleged is no doubt grave and serious, and there is observation of the Sessions Court as to the role of the advocate also. But considering the observations of the Sessions Court and the investigation papers, admittedly, there is no prima-facie material showing that the present non-applicant was a member in a conspiracy to prepare the bogus document, i.e. Will. There is no material to show that he is the person who was part of the conspiracy and prepared the said Will and therefore, the order passed by the learned Sessions Court cannot be termed as perverse.

10. In view of the above, no ground is made out for cancellation of bail. The application is devoid of merits and

liable to be rejected. Accordingly, I proceed to pass the following order.

The criminal application is **rejected**.

[URMILA JOSHI-PHALKE, J.]