



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

CRIMINAL APPLICATION (APPLN) NO. 141 OF 2022

State of Maharashtra V/s Narendra s/o Keshavrao Pimpale

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

Court's or Judge's Order

Ms. Swati Kolhe, APP for the applicant.

Mr. S.P. Sonwane, counsel for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 05/04/2024.

1. By this application, the State is seeking cancellation of bail granted to the non-applicant – Narendra Keshavrao Pimpale by order dated 15/10/2022, by which the non-applicant is protected by grant of anticipatory bail.

2. The non-applicant was arraigned as an accused in connection with Crime No. 23/2022 for the offence punishable under Sections 465, 466, 467, 468, 471, 420 read with Section 34 of the Indian Penal Code, 1860, registered at Sadar Police Station. The prosecution was launched against the present non-applicant on the basis of report lodged by one Santosh Gaikwad, Editor of Keshari Ujala News Channel regarding illegal sand excavation and supply by Sand Mafia truck drivers and owners illegally and he received the information that bogus royalties are prepared for this purpose.

3. It is further alleged that on 19/01/2022, the informant contacted the co-accused Rahul Khanna on his mobile number and discussed about the bogus royalty and

supply of sand. He informed the vehicle number and on that count, the co-accused sent him on his mobile bogus royalty of the sand Ghat of Tah. Kareli, District Narsingpur, Village Daranpuri in Madhya Pradesh and also paid the amount of Rs. 9,900/- by phone pay. However, the vehicle number and the vehicle were not at Narsingpur, where the royalty was prepared but the dates, and time of departure were also mentioned in the document. On the basis of this allegation, the crime was registered against the co-accused and the present non-applicant. Thereafter, the investigation was carried out and charge-sheet was filed against the 22 persons. Initially, the name of the present non-applicant was not in the FIR, but during the investigation, it was revealed and therefore, the non-applicant was apprehending the arrest and he approached the learned Trial Court. The learned trial Court has considered the entire case diary and also the chart and observed that, the chart wherein the applicant/accused was having hundreds of phone contacts with the co-accused and some of less contact with the other accused.

4. It is further observed that a complaint was filed for causing loss of 1226 Cubic Meter Brass Sand which may be as per the market value loss of Rs. 40 Lacks. It is also observed that about such types of activities and preparing bogus ETP's from Madhya Pradesh and excavating sand from Nagpur District, the accused had made a complaint at Patansawangi Police Station on 23/12/2021 requesting to take action on it, but the Patansawangi Police Station Officer directed the accused to approach Tahsildar, Saoner or District Mining

Officer, Nagpur for Police Station, within whose jurisdiction Ghats are situated. Thus, it is observed by the learned trial Court that it is the present applicant who has initiated the action against the illegal activities and protected the present non-applicant by granting anticipatory bail.

5. Being aggrieved and dissatisfied with the same, the present application was filed by the State for cancellation of bail, on the ground that the learned trial Court has not taken into consideration the entire evidence collected and statements of the witnesses, which reveals the involvement of the non-applicant in illegal sand business. The further ground raised by the State is that the huge loss of revenue caused to the State is Rs. 1,47,50,000/- as per the data collected by the investigating agency and for further investigation, the custodial interrogation of the non-applicant is required.

6. During the pendency of this application, the applicant approached the learned Trial Court for grant of bail under Section 439 of the Code of Criminal Procedure. The learned trial Court has considered the entire material on record. During the pendency of this application, the non-applicant has approached the learned trial Court for grant of bail under Section 439 of the Code of Criminal Procedure. The said application was allowed and the non-applicant is released on bail on executing PR. Bond of Rs. 15,000/- with one solvent surety of like amount.

7. The learned APP submitted that considering that the learned trial Court i.e. Additional Sessions Judge while

releasing the non-applicant on anticipatory bail in the event of his arrest had not considered the entire material and the loss caused to the Government, the custodial interrogation of the non-applicant was required. However, the non-applicant was protected by granting ad-interim protection which deserves to be cancelled. Whereas, the learned counsel for the non-applicant submitted that now the non-applicant is already released on bail under Section 439 of the Code of Criminal Procedure. The investigation is already completed. The charge-sheet as well as supplementary charge-sheet is also filed. Therefore, the custodial interrogation of the present non-applicant is not required. Moreover, considering the fact that during pendency of this application, not only the initial charge-sheet but the supplementary charge-sheet is also filed, and considering all these aspects, the non-applicant is released on regular bail. In view of that, the present application become infructuous and deserves to be rejected.

8. Having heard learned APP for Applicant/State and learned counsel for the non-applicant, perused the order of the Sessions Judge as well as the Chief Judicial Magistrate releasing the non-applicant on bail. While releasing the non-applicant on anticipatory bail also, the Sessions Court considered the entire material on record and observed that it was the present non-applicant at whose behest the inquiry was started as he was the person who made a complaint about the illegal activities regarding the Sand Ghats. He also observed that the letter which is not disputed by the investigating officer from which, it appears that, before registration of the

present crime, the present applicant had informed the police station. Considering the fact that, the charge-sheet is already filed, the alleged Sand cannot be recovered as the investigating officer has stated that it was consumed in construction and it is difficult to locate. It is also noted that the non-applicant has attended the concerned police station and cooperated with the investigating agency and also shown his readiness to hand over the mobile phones as well as his bank details. The Sessions Court has released him on anticipatory bail.

9. It is well settled that while considering the application for cancellation of bail and grant of bail, the considerations are different. The overwhelming and superwhelming circumstances are required to be shown for cancellation of bail. The considerations for cancellation of bail show that if the court has ignored the material evidence and the order is passed in a casual manner, can be one of the grounds to cancel the bail or the superwhelming and overwhelming circumstances if shown, the bail granted to the accused can be cancelled. The another ground on which the bail can be cancelled i.e. if the accused contravenes any terms and conditions imposed.

10. In the light of the above said well settled position, if the facts of the present case are taken into consideration, admittedly while releasing the non-applicant on anticipatory bail, the Sessions Court had considered the entire material and observed that, as the investigation is completed the non-

applicant is the person on his behest, the investigation was started and the said letter is also admitted by the investigating officer and thereafter, released him on anticipatory bail. Subsequently, the non-applicant approached the learned trial Court and he was released on regular bail. Thus, now there is no substance in the application. The application is devoid of any merits and liable to be dismissed. Accordingly, I proceed to pass the following order.

The application is **rejected**.

[URMILA JOSHI-PHALKE, J.]