



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO. 35 OF 2024

Shaikh Farooque Fattu (Fauji)
age 53 years, Occupation Ex-Military Man,
resident of Islampura, Galli No.4,
Near Jama Masjid, Deopur, Dhule.

... Applicant
[Orig. Complainant]

Versus

1. The State of Maharashtra
Through Dhule Police Station, Dhule.
2. Prakash Kalu Choudhari,
Age 46 years, Occupation Security agency
Resident of Bhani Madane Nagar,
Deopur, Dhule.

... Respondents

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Ms. A. N. Ansari, Advocate for the Applicant.
Mr. S. B. Narwade, APP for Respondent No.1-State.
Mr. N. A. Manav (through VC) h/f Mr. S. H. Jadhav, Advocate for
Respondent No.2.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 18.02.2025

Pronounced on : 21.02.2025

ORDER :

1. Applicant-original informant questions grant of regular bail to respondent no.2 by learned Special Judge, Dhule by order dated 12.05.2023 passed below Exhibit 210 in Special Case No. 7 of 2021 enlarging him on bail.

2. Learned counsel pointed out that serious offence has been committed. That charge is already framed for offence under Sections 302, 120-B, 504, 506 of IPC in crime no. 150 of 2017. Learned counsel pointed out that apart from penal sections, provisions of the Maharashtra Control of Organized Crime Act, 1999 (MCOCA Act) are applied. Learned counsel took this Court through the order of this Court in Bail Application No. 131 of 2018 and, according to her, every aspect of the charge sheet and evidence against the present respondent was taken into account and a detail order was passed rejecting the bail application of present respondent. That, subsequently, application Exhibit 210 came to be moved before learned Special Judge and in spite of serious allegations and involvement in grave offence, she pointed out that, applicant has been enlarged on bail. That, the observations of learned trial court while granting bail have not foundation and basis. That, therefore she questions such order and prays to cancel the bail.

3. Learned APP also adopted the arguments raised by learned counsel for the applicant.

4. Learned counsel for respondent no.2 strongly opposed on the ground that on complete appreciation, a reasoned order has been

passed and discretion has been judiciously exercised. That, respondent was arrested on 28.09.2017. That, after charge sheet, though this Court had initially rejected the bail application, subsequently all co-accused as well as the main accused, against whom there are primary allegations, are already released on bail. He pointed out that only allegation against present applicant is developing contacts on phone and secondly, allegation of harboring co-accused. That, except this, no role is attributed and so learned trial Judge committed no error in allowing the application. Hence, he prays to reject the application.

5. Heard. Perused the papers. It is emerging that present applicant was booked in crime no. 150 of 2017 registered at Dhule City Police Station for offence punishable under Sections 302, 120-B, 504, 506 of IPC, Sections 3 and 4 r/w 25 of the Arms Act and Sections 3 and 7 of Criminal Amendment Act. Subsequently, provisions of the MCOCA Act are also attracted. Charge sheet shows that as many as 19 persons are named as accused. On going through the papers, more particularly the FIR, as pointed out by learned counsel for respondent, it does emerge that as regards the present applicant is concerned, two-fold allegations are levelled against him i.e., becoming a link in contact amongst the accused on mobile phone and secondly,

harbouring co-accused. Now, most of the co-accused are already said to be released on bail and this is not refuted by either learned APP or learned counsel for the applicant. The order impugned herein is of May 2023. Initially, order of rejection at the hands of this Court is of 22 March 2018. Charge sheet is already filed. Special Case is already committed and therefore, when there is no adverse remark about any misuse of liberty granted by learned trial Judge, there is no reason to withdraw the liberty. Law is fairly settled that liberty once granted, cannot be withdrawn without just and sufficient cause. Here, no cause or reason has been put forth for withdrawal of said liberty. No case being made out, the application deserves to be rejected. Hence, following order is passed :

ORDER

The application is rejected.

[ABHAY S. WAGHWASE, J.]