



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO. 75 OF 2024
IN BAIL APPLICATION NO. 191 OF 2024

Arvind s/o Ramnath Lipane,
Age : 64 years, Occ : Advocate,
R/o : Sonai, Taluka Newasa,
District : Ahmednagar.

... Applicant
[Orig. Complainant]

Versus

1] The State of Maharashtra,
Through Investigation Officer,
Sonai Police Station,
Taluka Newasa, District Ahmednagar.

2] Krushna s/o Bhujangrao Ware,
Age : 45 years, Occ : Service & Business,
R/o : Anand Nagar, Pathardi,
Tq. Pathardi, Dist. Ahmednagar.

... Respondents
[R. No.2 is the orig. accused]

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Mr. D. R. Markad, Advocate for the Applicant.
Mr. V. M. Chate, APP for Respondent No.1-State.
Mr. N. B. Narwade, Advocate for Respondent No.2.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 27.02.2025

Pronounced on : 28.02.2025

ORDER :

1. Instant application is by original informant, who had set law into motion by approaching Sonai Police Station, District Ahmednagar resulting into registration of crime bearing no. 0329 of 2023 against

respondent no.2 for commission of offence under Sections 420, 409 and 406 of IPC and Section 3 of the Maharashtra Protection of Interest fo Depositors (in Financial Establishments) Act [MPID Act]. The applicant-informant is now seeking cancellation of bail granted to respondent no.2 in above crime by this Court's order dated 14.03.2024 in Bail Application No. 191 of 2024.

2. Learned counsel submitted that at the instance of the applicant, above crime was registered on allegations that, present respondent had approached informant and his acquaintances, posing himself to be corporate leader, and lured them for investments in share market for huge returns through one Sangli based S.M.Global company. Trusting respondent, transactions of investment were made to the tune of Rs.3,71,00,000/-, in which, as many as 174 persons had invested their earnings. On such report, Sonai Police registered crime for offences under Sections 420, 409 and 406 of IPC. It is further submitted that present respondent preferred Bail Application No. 191 of 2024 before this Court and this Court was pleased to allow the same vide order dated 14.03.2024. It is further pointed out that, while granting bail, conditions were imposed including not to tamper or pressurize prosecution witnesses and specific condition that applicant shall not leave Ahmednagar District or go abroad without

prior permission of trial court. It is pointed out that condition was also imposed that he should deposit Rs.84,00,000/- within six months, failing which liberty was granted to prosecution to move for cancellation of bail. Taking this Court through the bail order annexed herewith, it is further submitted that applicant has breached above conditions. Apart from taking trips to various places like Mahabaleshwar, including trip abroad to Dubai, applicant has also not deposited amount directed by this Court. Hence, according to learned counsel, there is apparent breach and violation of very conditions imposed by this Court and hence he seeks cancellation of bail.

3. Learned APP also joined in seeking cancellation by pointing out that condition of depositing amount has not yet being complied even when six months period is over.

4. Strongly opposing the above application, learned counsel for the respondent would submit that this is clear attempt to make out a case for cancellation. Learned counsel denied that respondent no.2 undertook any trip to Mahabaleshwar or Dubai. He questioned the authenticity of photographs placed on record by applicant. He also tendered affidavit to this extent.

5. After going through the papers, it is emerging that after registration of above crime against present respondent-accused, he approached this Court for grant of regular bail vide Bail Application No. 191 of 2024. This court by order dated 14.03.2024, allowed bail application by imposing following conditions:

“II. The applicant in connection with crime No. 329 of 2023 registered with Sonai police station, District Ahmednagar for the offences punishable under Sections 406, 409, 420 r/w 34 of the I.P.C. and under Section 3 of M.P.I.D. Act, be released on bail on furnishing personal bond of Rs.1,00,000/- with one surety of the like amount on following conditions:-

- a) The applicant shall not tamper with the prosecution evidence and shall not pressurize the witnesses, in any manner.*
- b) The applicant shall not leave Ahmednagar district or shall not go abroad without prior permission of the trial court.*
- c) If the applicant fails to deposit the remaining amount of Rs.84,00,000/- within six months from today, the informant or the prosecution is at liberty to move the court for cancellation of bail.”*

6. Along with the present application, original informant has placed on record photographs showing present respondent no.2 posing with his family in front of hoarding “I Love Mahabaleshwar”.

Specific allegations are also made that he undertook trip to Dubai. Though this is refuted by learned counsel for respondent-accused, he has not placed passport which was expected from him in support of denial. Therefore, there is material suggesting leaving Ahmednagar without prior permission of the court which was a specific condition imposed by this Court by virtue of clause (b) of the operative part of order dated 14.03.2024. Moreover, on court query raised by this Court on submissions made by learned APP that, amount directed by this Court in its above order to be not deposited yet, learned counsel for respondent-accused fairly conceded that said amount is not deposited, however, he raised a contention that present application is premature as there was time granted for compliance of condition. Such submissions clearly show that firstly, applicant has left Ahmednagar without seeking permission of the trial court. Secondly, since grant of bail order dated 14.03.2024 stipulating six months time to deposit Rs.84,00,000/-, even at the time of hearing or prior to hearing of present application, said amount is admitted to be not deposited. Therefore, apparently there is breach of conditions. This Court had directed that, if amount is not deposited within stipulated time, then prosecution is at liberty to move for cancellation. Duration of six months commencing from 14.03.2024 has already ended by September 2024 itself. No efforts are done to get the said period

extended. At least it is not so appearing from the annexures or say on behalf of the respondent accused. Resultantly, case for cancellation is made out for violation of conditions. Hence, following order is passed:

ORDER

- I. The application is allowed.
- II. The bail granted to present respondent/accused by this Court in crime no. 329 of 2023 registered with Sonai Police Station, District Ahmednagar by order dated 14.03.2024 in Bail Application No. 191 of 2024 stands cancelled.
- III. The respondent/accused is directed to surrender before the Sessions Court if the case is committed, if not, then before the concerned Magistrate within two weeks from today.
- IV. His bail bonds stand cancelled and surety stands discharged.
- V. If required, concerned police station to take steps by approaching concerned Magistrate, in whose jurisdiction concerned police station falls, i.e. for securing arrest of respondent no.2.

[ABHAY S. WAGHWASE, J.]