



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

APPLICATION FOR CANCELLATION OF BAIL NO. 108 OF 2024

Anita W/o Dnyaneshwar @ Uttam Baviskar (Koli)

Age : 32 years, Occu.: Household,

R/o. Hariom Nagar, Asoda Road,

Jalgaon, Tq. & Dist.Jalgaon.

....Applicant

Versus

1. The State of Maharashtra
Through its Shani Peth Police Station,
Jalgaon, Tq. & Dist.Jalgaon.

2. Ashwin @ Bhaiya Sahebrao Shankhpal
Age: 32 years, Occu.: Business,
R/o. Asoda Raod, Walmik Nagar,
Jalgon, Tq. & Dist.Jalgaon.

.....Respondents

.....

WITH

APPLICATION FOR CANCELLATION OF BAIL NO. 141 OF 2024

. The State of Maharashtra
Through Police Inspector,
Shani Peth Police Station, Jalgaon,
Tq. & Dist.Jalgaon.

.....Applicant

Versus

. Ashwin Alias Bhaiya Sahebrao Shankhpal
Age : 32 years, Occu.: Business,
R/o. Asoda Road, Walmik Nagar,
Jalgaon, Tq. & Dist.Jalgaon.

.....Respondent
(Ori. Accused No.1)

.....

Advocate for Applicant / Informant : Mr. Vijay Bhalerao Patil

APP for State : Mr.N.D.Batule

Advocate for Respondent - Accused : Mr.B.S.Deshmukh

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 26 FEBRUARY, 2025

PRONOUNCED ON : 03 MARCH, 2025

ORDER :

1. Both above applications are by informant and State seeking cancellation of bail granted to respondent Ashwin @ Bhaiya Sahebrao Shankhpal by learned I/c. Additional Sessions Judge, Jalgaon in Criminal Bail Application No.640 of 2024 dated 24-05-2024.

2. Learned counsel for the applicant / informant submitted that brutal murder has been committed. That, deceased had died due to multiple injuries on the person. That, deceased was taken from his house and later on was found dead with multiple injuries on body. That, parents and wife of deceased had all seen present respondent Ashwin and one other person coming to the house and taking deceased with them. That later on, occurrence of beating had taken place and it was reported by cousin of deceased namely Anil @ Bunty Yuvraj Raisinghe. That, statements of eye witnesses like Pandhari Baviskar (father of deceased), Anil @ Bunty Raisinghe, Ravindra Baviskar, Sagar Laxman Sapkale and Kailas Sapkale are recorded and they all are naming respondent Ashwin to be assaulting deceased.

That, even when investigation was in progress, learned trial Court has granted bail barely after a month or so after his arrest and therefore, grant of bail is questioned on the merits itself.

3. Learned APP also sought cancellation of bail on the ground that there is brutal murder. That, there are allegations of beating to deceased after respondent Ashwin and one unknown person came and took him from his house. That, there are statements of informant and father of deceased. That, cousin of deceased had seen beating and he had telephoned informant promptly. That, there is CCTV footage. Therefore, with such quality of evidence, even when investigation was in progress, learned trial Judge has granted bail and thus, he too seeks cancellation of bail.

4. Heard Both the sides extensively. Perused the papers. Anita Dnyaneshwar @ Uttam Baviskar has set law into motion by approaching Shani Peth Police Station, Jalgaon on 09-04-2024 reporting therein that her husband Dnyaneshwar was playing with minor son beneath porch of their house at 08:15 a.m. on 09-04-2024. She reported that present respondent Ashwin and one person came on motorcycle and took her husband on it. That, after 15-20 minutes, she claims to have received a phone call from his relative

Bunty Yuvraj Raisinge informing that some persons are beating her husband and he had suffered head injury. That, Police had also come to look out for her husband and they are also informed about her husband being taken. That, around 03:00 p.m. again Police came and informed that Dnyaneshwar was lying in injured condition in Asoda Shivar. That, he was shifted to hospital and there also Bunty Yuvraj Raisinge named present respondent Ashwin, Pawan Thakare, Jaiwant Raisinge, Ajay Sonwane, Varun Baviskar for beating after taking her husband Dnyaneshwar and took him in a vehicle. Hence, on above report, crime seems to have registered on 09-04-2024. Thus, *prima facie* informant has received information allegedly from Bunty Raisinge.

On visiting statement of Anil @ Bunty Raisinge dated 10-04-2024, he claims that on 09-04-2024 at around 07:30 a.m. he heard abuses and commotion from Gym and went and saw crowd beating his paternal cousin Dnyaneshar. He reported that amongst them was Ashwin i.e. present applicant, Pawan Thakare, Varun Baviskar, Ajay Sonawane, whom he knew. This witness claims that he questioned Ashwin for beating, upon which he told that Dnyaneshar had committed theft in the house, but Dnyaneshwar refused, upon which it is alleged that Ashwin banged head of

Dnyaneshar on Tractor Trolley. This witness claims that he also requested Ashwin not to beat Dnyaneshwar and to take him to Police Station and accordingly, Ashwin and Pavan took Dnyaneshwar on Motorcycle.

5. Criminal Bail Application No.640 of 2024 appears to have been moved before learned Additional Sessions Judge, Jalgaon and same seems to have been allowed on 24-05-2024. It is a detailed order after hearing both the sides and even on appreciating statement of Anil @ Buntty. Said order dated 24-05-2024 is now questioned by filing instant application in July 2024 by informant and by State also. Since, grant of bail, there is no adverse remark about violation of conditions or non-cooperation during investigation. This Court has ascertained whether material, which is brought to the notice of this Court today, was also brought to the notice of learned trial Court and apparently, it seems that the same material was before the learned trial Judge also, who granted bail. Therefore, it cannot be said that discretion has not been exercised judiciously. After hearing respective parties i.e. learned counsel for the applicant therein, learned APP and on going through the papers placed before it, order seems to have been passed. Liberty once granted cannot be

withdrawn without just and sufficient cause. Here, case to that extent has not been made out and therefore, there is no reason to cancel the bail. Hence, the following order :

ORDER

Application for Cancellation of Bail Nos.108 of 2024 and 141 of 2024 are rejected.

(ABHAY S. WAGHWASE)
JUDGE

SPT