



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO. 159 OF 2024

Dnyaneshwar Balasaheb Khodve,
Age : 42 years, Occu. : Agriculture,
R/o. Durdi, Tq. & Dist. Parbhani

... Applicant
(Informant)

Versus

1. Anand @ Ananta Devidas Chopde,
Age : 23 years, Occu. : Agriculture,
R/o. Durdi, Tq. & Dist. Parbhani.
2. Bhaskar Bapurao Chopde,
Age : 45 years, Occu. : Agriculture,
R/o. Durdi, Tq. & Dist. Parbhani.
3. The State of Maharashtra,
Through Officer In charge,
Police Station Parbhani (Rural),
Dist. Parbhani.

... Respondents.

.....
Mr. Sudarshan J. Salunke, Advocate for Applicant
Mr. Vaibhav Pawar, Advocate for Respondent Nos.1 and 2
Mr. V. M. Jaware, APP for Respondent - State
.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 13 JANUARY, 2025

PRONOUNCED ON : 15 JANUARY, 2025

ORDER :

1. Present application is for cancellation of bail granted to present respondent nos.1 and 2 by this court on 27.06.2023 in Bail Application No.941 of 2023.

2. Learned counsel for the applicant pointed out that present applicant is original informant, on whose report, crime bearing No.111 of 2023 was registered at Parbhani Rural Police Station for offence punishable under sections 326, 452, 327, 324, 427, 323, 504, 506, 143, 147, 148 and 149 of Indian Penal Code.

3. He further pointed out that, after registration of above crime, present respondent nos.1 and 2, both approached this court for grant of regular bail after their arrest. That, this court by order dated 27.06.2023 allowed the application by imposing conditions. Learned counsel pointed out that, it was specifically directed that applicant shall not tamper with the prosecution witnesses. However, in spite of such condition, it is pointed out that, both applicants after their release committed another offence of assault and report to that extent being lodged. In support of such contention, learned counsel took this court through the report of one Baliram Khodve at whose instance crime has been registered on report dated 04.08.2024 under various provisions of BNS. Consequently, learned counsel submits that, there being breach of condition, bail so granted deserves to be cancelled.

Learned counsel seeks reliance on similar order of this court passed in Criminal Application No.1645 of 2021 along with

Application for Cancellation of Bail No.166 of 2020, dated 06.09.2021.

4. Learned counsel for respondent nos. 1 and 2 pointed out that, there is false implication. That, said report is false and afterthought and that too by brother of present applicant. That, incidences are distinct. He also placed reliance on ruling of Hon'ble Kerala High Court and would submit that, mere registration of crime while on bail is no good ground for cancellation of bail. He also seeks reliance on judgment of Hon'ble Apex Court in the case of *P v. Madhya Pradesh and Another*. (2022 SCC Online SC 552).

5. After hearing both sides, it is emerging that, present respondent nos. 1 and 2 stood beneficiaries of bail at the hands of this court by virtue of order dated 27.06.2023 in Crime No. 111 of 2023 registered against present respondent nos.1 and 2. On going through the order, this court had imposed condition no.(ii), which is of relevance, is reproduced as under :-

“(ii) The applicants, Anand Devidas Chopde and Bhaskar Bapurao Chopde, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) each with one solvent surety in the like amount in connection with the above crime, on the conditions that they shall not tamper with the prosecution witnesses.”

6. Thus, there was specific condition imposed by this court that present respondent nos.1 and 2, who are applicants in Bail Application No.941 of 2023, to not to tamper with the prosecution witnesses.

7. Perused the report at the instance of Baliram Khodve, who is said to be brother of present applicant and on his report allegations are levelled against in all four persons including present respondent nos.1 and 2 for approaching informant Baliram, with threats to settle previous dispute and in such backdrop there are allegations of assault by iron pipe as well as kicks and fist blows. Specific allegations are levelled against present respondent nos.1 and 2. Hospital papers of Baliram are also placed on record for suffering fracture to leg.

8. Thus, from above material it does emerge that while on bail, second offence has been registered against respondent nos.1 and 2. No doubt, cancellation of bail is a serious matter and has to be done in exceptional circumstances, because liberty once granted cannot be withdrawn without sufficient cause. However, here, it is pointed out that, for withdrawing previous crime in which respondent nos.2 and 3 are named and involved, and are rather set

at liberty by imposing conditions, the same are said to be flouted. Fearlessly indulging in assault with article like iron pipe demonstrates utter disregard to the law as well as conditional order. Therefore, case being made out for cancellation of bail, relief as prayed deserves to be granted.

9. Application is allowed in terms of prayer clauses (B), (C) and (D).

(ABHAY S. WAGHWASE, J.)