



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO. 168 OF 2024

Adinath s/o Suryabhan Ghanwat
Age : 40 years, Occ. Service,
(Range Forest Officer)
R/o. Talni, Tq. Shevgaon,
Dist. Ahmednagar.

... Applicant

Versus

1. The State of Maharashtra
Through Investigation Officer,
Shevgaon Police Station, Tq. Shevgaon,
Dist. Ahmednagar.
2. Abasaheb s/o Prabhakar Tupvihire
Age – 30 years, Occu. Agri.
3. Kakasaheb s/o Prabhakar Tupvihire
Age – 25 years, Occu – Agri.,

Both R/o. Talni, Tq. Shevgaon,
Dist. Ahmednagar.

... Respondents
[Orig. Accused]

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Mr. N. B. Narwade, Advocate for the Applicant.
Mr. C. V. Bhadane, APP for Respondent No.1-State.
Mr. D. R. Markad, Advocate for Respondent Nos. 2 and 3.

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CORAM : ABHAY S. WAGHWASE, J.

DATED : 30.01.2025

ORDER :

1. Applicant seeks withdrawal of bail granted to the respondents by order passed by learned Additional Sessions Judge, Ahmednagar in Criminal Bail Application No. 1030 of 2024 dated 08.08.2024 in

crime no. 0577/2024 registered at Shevgaon Police Station, District Ahmednagar for offences punishable under Sections 118(2), 352, 351(2), 351(3), 3(5) of the Bhartiya Nyaya Sanhita (BNS).

2. Learned counsel submitted that serious offence was committed by the respondent. Taking this Court through the FIR, he submitted that roles of the applicants are specified and crystallized. That, there are allegations of use of deadly weapon like iron tommy and vital part like head is targeted. There is use and also recovery of sickle. That, with such serious allegations, learned trial court ought not to have granted bail. Learned counsel pointed out that initially report was for offence under Sections 352, 351(2) & (3), however, later on there was addition of charge of Section 109 of BNS. In spite of above nature of allegations and use of deadly articles, coupled with availability of medical evidence, learned trial Judge has allowed bail. That, on merits, such order ought not to have been passed and hence for improper consideration by learned trial court, learned counsel seeks setting aside the order dated 08.08.2024 and to further direct that applicants be taken in custody.

3. Learned counsel for respondents pointed out that after applicants' were in MCR, they moved bail application and after

hearing the prosecution and also going through papers placed on record by both the sides, bail has been granted. Thus, according to him, there is no reason for cancellation.

4. Learned APP also formally objected to the grant of bail with above allegations.

5. Perused the papers. It is emerging that one Adinath Ghanwat gave report that on 06.07.2024, when agricultural activity was going on in field, his neighbours Babasaheb and Kakasaheb came and obstructed the work claiming ownership of the land. When understanding was tried to be given, it is alleged that, Abasaheb and Baban came there. Initially there was abuse by Abasaheb and thereafter Babasaheb gave kick and made informant fall. Thereafter, Ababasaheb came with tommy and hit it on his head, whereas Kakasaheb hit on hand and Babasaheb hit by means of rod and Babasaheb assaulted with axe on his head resulting into bleeding injury.

6. Papers show that after registration of crime, Criminal Bail Application No. 1030 of 2024 was preferred before learned Additional Sessions Judge, who heard learned counsel for the applicants therein (present respondents) as well as learned APP. Complainant intervenor

also seems to be heard and thereafter bail has been granted by assigning reasons in para 8 of the order dated 08.08.2024.

7. Learned counsel has taken exception to the observation in above para that there is no chance of further implication for aggravated offence. However, subsequently, according to him, offence of Section 109 of BNS has been added. Even if it is so, such addition of charge is prior to the date of hearing of the Criminal Bail Application by learned trial court. Learned APP appearing in the matter could have brought it to the notice of learned trial court about addition of Section 109 of BNS. Consequently, now it is not open to agitate on merits and question the reasoned order. Law is fairly settled that liberty once granted, cannot be withdrawn without just and sufficient cause. Hence, I proceed to pass the following order :

ORDER

The application for cancellation of bail is dismissed.

[ABHAY S. WAGHWASE, J.]