



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO. 169 OF 2024
IN
BAIL APPLICATION NO. 491 OF 2023

Kalandar s/o Laddu Shah,
Age : 64 years, Occ: Agriculture,
R/o Aadgaon Mahuli,
Tq. & Dist. Aurangabad. ... Applicant

Versus

1. The State of Maharashtra
2. Hakkani Ajmer Shah
Age 35 years, Occ : Labour,
R/o Aadgaon Mahuli,
Tq. & Dist. Aurangabad. ... Respondent

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Mr. Sohail Subhedar h/f Mr. N. S. Ghanekar, Advocate for the
Applicant.
Mr. N. D. Batule, Advocate for Respondent No.1-State.
Mr. Ajinkya Reddy, Advocate for Respondent No.2.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 24.02.2025
Pronounced on : 28.02.2025

ORDER :

1. Present application is at the instance of original informant, urging this Court to cancel the bail granted in favour of respondent no.2 by order dated 06.04.2023 in Bail Application No. 491 of 2023.

2. Initially taking this Court through the FIR, learned counsel would submit that crime was registered for offence of attempt to commit murder by hitting on vital part like head. Learned counsel took this Court through the photographs placed along with the application as well as injury certificate. He further submitted that this Court granted respondent bail by order dated 06.04.2023 by imposing condition that he shall not tamper with the prosecution witnesses. According to learned counsel, this specific condition has been flouted. That, while on bail, applicant has assaulted son of informant. Even photographs of the injury due to said assault are placed on record. He also took this court through the injury certificate of son of informant. Resultantly, for breach of condition, learned counsel seeks cancellation of bail.

3. Learned APP also supports prayer for cancellation of bail for violation of condition.

4. Learned counsel for respondent no.2 opposed on the ground that there is clear attempt to lodge false complaint to make out a case for cancellation of bail. That, moreover, son of informant, who is allegedly injured, was not a witness in the previous case. Thus, according to learned counsel, it does not amount to tampering.

5. Heard. Perused the papers. FIR dated 11.02.2023 at the instance of Kalandar Shah shows that, on 11.02.2023, Rabbani Khan Ajmer Khan, Hakkani Khan Ajmer Khan (present respondent no.2), Abubakar Rabbani Khan came near informant in land gat no. 15 when informant was with one police official Jagtap. Initially it is alleged that Rabbani gave abuses in filthy language and while said Jagtap was giving him understanding, it is alleged that, he said to Hakkani and Abubakar that informant should not be spared alive and should be done to death and saying so, he picked up stone and hit it on the head of informant, who is a 63 years old person. Injury certificate Exhibit "C" shows that there are two simple and two grievous injuries, including one on temporal region. Photographs of the same are placed on record.

6. In above FIR, Bail Application No. 491 of 2023 was moved by present respondent no.2 and this Court, by order dated 06.04.2023, considering the dispute to be of civil in nature and that injured had been discharged and when no further recovery was shown to be made, granted bail by imposing conditions including not to tamper prosecution witnesses.

7. It appears that, subsequently on 27.04.2024 Imran Kalandar Shah, i.e. son of previous informant at whose instance previous crime was registered bearing no. 0031 of 2024, approached M.I.D.C., CIDCO Police Station lodging report alleging that on 26.04.2024, near Naregaon garbage dumping ground, Hakkani Ajmer Khan (present respondent no.2), Rabbani Khan, Jilani Khan and Abu Bakar Rabbani Khan obstructed informant's brother Akhil at 5.40 p.m. and he was assaulted by means of iron rod and axe. There are allegations that present respondent no.2, who was armed with axe, used the same by hitting it on the head of informant's brother Akhil, questioning why crime registered by his father is not withdrawn. On above report, crime seems to be registered again for offence under Section 307, 341, 34 of IPC and Sections 37(1) and 135 of the Maharashtra Police Act.

8. Therefore, from above discussion and the papers placed before the Court, it is clearly emerging that while on bail, and in spite of condition of not to tamper with prosecution witnesses, apparently, there is misuse of the liberty. Contents of the FIR clearly show that present respondent no.2 uttered that previous case has not been withdrawn. Therefore, submissions of learned counsel for respondent that, subsequent event has not bearing on the previous incidence, has

no force. Only for violation of condition of bail, this Court is constrained to withdraw the liberty granted. Hence the following order is passed :

ORDER

- I. The application is allowed.
- II. The bail granted to present respondent/accused by this Court in crime no. 31 of 2023 registered with Karmad Police Station, District Aurangabad by order dated 06.04.2023 in Bail Application No. 491 of 2023 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.]