



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

APPLICATION FOR CANCELLATION OF BAIL NO. 159 OF 2023

. Chandji S/o. Kashinath Pawar
Age: 42 years, Occu.: Agri.,
R/o. Nahad, Tq.Basmath,
Dist.Hingoli.Applicant

Versus

1. The State of Maharashtra
Through Police Station, Hatta,
Tq.Basmath, Dist.Hingoli.
2. Vivekanand S/o. Uttamrao Pawar
Age: 31 years, Occu.: Private Job,
R/o. Nahad, Tq.Basmath, Dist.Hingoli.Respondents

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Advocate for Applicant : Mr. Sudhir K. Chavan

APP for Respondent no.1: Mr.S.B.Narwade

Advocate for Respondent no.2 : Mr. Dhananjay M. Shinde

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 22 JANUARY, 2025

PRONOUNCED ON : 24 JANUARY, 2025

ORDER :

1. Instant application is by original informant seeking cancellation of regular bail granted by learned Additional Sessions Judge, Basmathnagar dated 19-07-2023 in Criminal Bail Application No.171 of 2023 arising out of Crime bearing no.116 of 2023 registered at Hatta Police Station for offence under Sections 302, 201, 107 read with 34 of the Indian Penal Code (IPC).

2. Learned counsel for the applicant pointed out that present application is by original informant at whose instance above crime was registered. It is submitted that informant's brother Sanjay was done to death by assaulting him mercilessly on suspicion of illicit relations with wife of accused. That, on report to that extent, above crime was registered and investigated. That, there is strong incriminating evidence regarding involvement of present respondent no.2 i.e. in the form of CCTV footage, showing both deceased and applicant in each others company at a Dhaba. That, further investigation revealed that, respondent no.2 took motorcycle of deceased towards Basmatnagar S.T.Stand and parked the vehicle there. That, after committing murder, dead body was thrown in the well. That, inspite of there being overwhelming evidence, it is submitted that learned trial Court has granted bail. That, material gathered by investigating machinery has not been appreciated and in support of such submission, learned counsel took this court through the order dated 19-07-2023 and attention is invited to paragraph 15 of the order. For above reasons, learned counsel questions the bail order and prays to set aside the same and cancel the bail.

3. Learned counsel for respondent no.2 would submit that after

investigation was over, Criminal Bail Application No.171 of 2023 was moved. That, after considering the investigation papers and on hearing both the sides, learned trial Court granted bail by passing a reasoned order and hence, learned counsel prays to reject the instant application for want of merits and substance

4. After considering the above submissions and on going through the papers, it seems that Crime bearing no.116 of 2023 was registered at Hatta Police Station, Dist.Hingoli on report lodged by present applicant Chandji Kashinath Pawar, who reported that his brother Sanjay was killed and dead body was thrown in the well by present respondent no.2, suspecting illicit relations between deceased and his wife. On above report, crime for offence under Sections 302, 201, 107 read with 34 of the IPC seems to have been registered and Police seems to have filed chargesheet on 10-06-2023.

Criminal Bail Application No.171 of 2023 seems to have been pressed into service on 07-07-2023 seeking grant of regular bail on various grounds spelt out in the application.

Papers shows that learned Additional Sessions Judge, Basmathnagar heard learned counsel for applicant, as well as prosecution including present applicant / informant, who opposed

bail application. Thus, present application seems to be second attempt by the informant, however, now seeking withdrawal of relief of bail on the ground that learned court below did not appreciate the material gathered by investigating machinery in its proper perspective.

5. After going through the papers, apparently after FIR, investigation was undertaken and it seems that case is based on circumstantial evidence. Solitary piece of evidence seems to be electronic evidence regarding deceased and appellant to be together at around 07:28 p.m. on 11-03-2023 and deceased was reported to be found dead in the well in the morning of 13-03-2023. Taking the same into account, and that the case is based on circumstantial evidence, learned trial Court granted bail by order dated 19-07-2023 by assigning reasons. Thus, reasoned order has been passed on hearing both the sides and on going through the papers made available to the Court at that time. There is no adverse remark regarding non-cooperation or regarding disobedience of the conditions imposed. Resultantly, when there is no sufficient cause to withdraw the relief granted earlier, application deserves to be dismissed. Hence, the following order :

ORDER

Application for Cancellation of Bail No.159 of 2023
is rejected.

(ABHAY S. WAGHWASE)
JUDGE

SPT