



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO. 204 OF 2024

Shruti w/o. Saurabh Pokharkar,
Age : 28 years, Occu. : Service,
R/o. Balewadi Stadium Near Mahalunge,
Taluka and District Pune.

... Applicant

Versus

1. The State of Maharashtra,
2. The Police Station In-charge,
Newasa Police Station,
Taluka Newasa, Dist. Ahmednagar.
3. Shivnath S/o. Dnyandeo Chawre,
Age : 41 years, Occu. : Agricutlure,
R/o. Jalke (Kh), Taluka Newasa,
Dist. Ahmednagar.

... Respondents.

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Mr. Amol N. Kakade, Advocate for Applicant.
Mr. C. V. Bhadane, APP for Respondent - State.
Mr. Mahesh S. Taur, Advocate for Respondent No.3.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 13 FEBRUARY, 2025

PRONOUNCED ON : 14 FEBRUARY, 2025

ORDER :

1. Present application is for cancellation of bail granted to respondent no.3 Shivnath by learned Additional Sessions Judge, Newasa, District Ahmednagar in Criminal Bail Application No.306 of 2024.

2. Learned counsel pointed out that, original informant hereby questions the grant of bail to respondent no.3. That, FIR was lodged because of demise of wife of victim Shantanu, who is injured and still unable to give statement. Accused persons hatched conspiracy to do away with Shantanu. Contract killer has been engaged for committing the offence. That, on 16.08.2024, Shantanu was tried to be run over by giving dash by use of Bolero vehicle. That, there is eye witness account. Learned counsel submitted that, on report of sister of injured crime has been registered for offence punishable under sections 109 and 61(2) of Bharatiya Nyaya Sanhita. He submitted that, there is evidence of conspiracy for committing grave offence. That, in spite of serious allegations, it is submitted that, learned trial Judge has granted bail. That, there was evidence in the form of eye witness or CCTV footage coupled with evidence about telephonic conversation suggesting conspiracy and its execution. That, the same has not been considered. Learned counsel pointed to the observation of the learned trial court, more particularly in paragraph 9 and would submit that the same are against the facts emerging from investigation papers. Therefore, according to learned counsel, bail application was not liable to be allowed on merits itself. Hence, he seeks cancellation of bail by setting aside the order passed in Criminal Bail Application No.306 of 2024 dated 22.10.2024.

3. Learned APP also pointed out that, serious offence has been committed. That, there was ample evidence. The same has not been considered and hence he also prays to cancel the bail.

4. Learned counsel for respondent no.3 opposed the above application by pointing out that there was false implication. That, bail application was heard on merits. That, arguments of learned counsel for applicant as well as learned APP were heard and learned trial court has appreciated the FIR as well as papers before it and thereafter has granted bail. He pointed out that, conditions imposed are meticulously and scrupulously followed. That, there is no breach. On merits application has been decided and hence he prays to dismiss the application.

5. Perused the papers. FIR bearing no.0776/2024 seems to be at the instance of one Shruti Pokharkar, who has lodged report with Ahmednagar Police Station on 17.08.2024 and its substance is that, on 16.08.2024, she received phone call from her paternal cousin Shantanu in frighten condition informing that he is being chased by white Bolero and shortly thereafter one phone call was received from unknown person informing that dash has been given to Shantanu by Bolero vehicle. She further reported that on

17.08.2024 i.e. next day she learnt from her father Balasaheb that chase was given by Bolero and dash was actually seen by one Sandeep Nandgavhane. On above report, crime seems to have been registered for above offence, but against unknown driver.

6. Papers show that, Criminal Bail Application No.306 of 2024 was preferred by present respondent no.3 before learned Additional Sessions Judge, Newasa and after notice arguments of counsel for the applicant, learned APP as well as counsel representing informant were all heard and bail seems to have been granted by order dated 22.10.2024. This order is now precisely branded as perverse and sought to be set aside by cancelling the bail.

7. After considering the above submissions and on going through the order, it is emerging that, contention raised by each of the side respectively are discussed from paragraph no. 4 onwards. Learned trial court has also considered the contents of the FIR, papers placed by learned APP including case diary and as such a reasoned order has been passed, thereby exercising discretion, but *prima facie* seems to be exercised judiciously i.e. after considering papers on record as well as arguments advanced by each of the side. Law is fairly settled that liberty was granted cannot be

withdrawn in a casual and mechanical manner. On court query to the learned counsel for applicant as to whether there is any evidence showing applicant to be occupant of the vehicle or behind its wheel which was allegedly use for giving deliberately dash, he could not satisfy this court. He merely pointed out that there is CCTV footage and CDR, but appreciation of such electronic evidence would be done at appropriate stage. Learned APP also fairly admitted that State has not moved for cancellation after grant of bail by learned Additional Sessions Judge, Newasa on 22.10.2024.

Therefore, in view of above discussion, no case being made out for cancellation of bail.

8. The application stands rejected.

(ABHAY S. WAGHWASE, J.)