



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION NO.9 OF 2025

(Ajay s/o Prabhakar Sawale and anr. Vs. State of Maharashtra and ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. V.S. Giramkar, Advocate a/w Mr. K.R. Jain, Advocate for the applicants.

Ms S.S. Dhote, APP for the State.

Mr. K.R. Giripunje, Advocate for non-applicant Nos.2 to 4.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JULY 22, 2025.

By this application, the applicants are seeking cancellation of bail which is granted to non-applicant Nos.2 to 4 by order dated 18/03/2024.

2. The non-applicant Nos.2 to 4 came to be arrested on 11/01/2024 in connection with Crime No.19/2024 registered with police station Malkapur City, District Buldhana for the offence punishable under Sections 326, 324, 323, 504 and 506 read with Section 34 of the Indian Penal Code on an allegation that the present non-applicant Nos.2 to 4 assaulted the brother of the informant by means of iron rod due to the previous enmity at Nimwadi square and the injured has sustained the injuries. On the basis of the said allegation, the crime was registered and they approached initially to the Sessions Court for grant of bail and the Sessions Court has rejected the bail application, therefore, they have filed the application before this Court bearing Criminal Bail

Application No.152/2024. By considering the fact that, thought *prima facie* case is made out against the present applicant but the investigation is completed and charge-sheet is filed and the injured are already discharged from the hospital and the injury certificate shows that now there is no apprehension as to the death, and therefore, they are released on bail.

3. Being aggrieved and dissatisfied with the same, present application is filed on the ground that while releasing the non-applicant Nos.2 to 4 on bail, the condition was imposed that they shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

4. It is the contention of the applicants that after releasing the non-applicant Nos.2 to 4 on bail they have threatened the injured as well as the informant and other family members, and therefore, they are having apprehension as to their life and limb, and therefore, they approached to this Court for cancellation of bail.

5. Learned Counsel for the applicant reiterated the contention that as there is apprehension that the present non-applicant Nos.2 to 4 would cause any harm to the life and limb of the prosecution witnesses the bail granted to them deserves to be cancelled.

6. Learned Counsel for the applicants further submitted that there is another crime registered against

the present applicants vide crime No.357/2024 at the instance of the non-applicant No.2 and considering all these aspects, the bail granted to the present non-applicant Nos.2 to 4 deserves to be cancelled.

7. Learned APP supports the contention of the applicants and submitted that considering the ground that non-applicant Nos.2 to 4 have threatened the prosecution witnesses the bail granted to them deserves to be cancelled.

8. Learned Counsel for non-applicant Nos.2 to 4 submitted that as far as the ground raised in the application is concerned, which is not supported by any instance. The general allegation is levelled against them. The considerations for grant of bail and considerations for cancellation of bail are different. In view of that, the application deserves to be rejected.

9. On hearing both the sides and on perusal of the entire record it reveals that the crime is registered against non-applicant Nos.2 to 4 on the basis of the report lodged by Ajay Prabhakar Sawale on an allegation that on 11/01/2024 he received a phone call of his wife and she disclosed that his brother Sanjay Prabhakar Sawale is assaulted by the present applicant by means of iron rod. He immediately rushed to the spot of incident and it was informed to him that the present non-applicant Nos.2 to 4 have assaulted his brother by means of iron rod and he

sustained the grievous injuries. After registration of the crime, the non-applicant Nos.2 to 4 approached to this Court for grant of bail and the bail application was considered by observing that the complainant has also sustained the injuries in the nature of abrasion and contusion. Both the injured are discharged from the hospital and from the nature of the injuries it appears that injuries are not in the nature of life threatening injuries. The incriminating weapons are already recovered by the investigating agency and forwarded to the Medical Officer for obtaining the opinion. The opinion of the Medical Officer shows that such injuries sustained by the injured are possible by the weapon seized by the investigating agency. Thus, though the involvement is revealed in the alleged incident but considering now the investigation is completed, charge-sheet is filed, they are released on bail.

10. Now, the application is filed on the ground that there was threatening by the present non-applicant Nos.2 to 4 to the prosecution witnesses and for that purpose the applicants placed reliance on one application filed by the informant before the Sub-Divisional Officer, Malkapur, District Buldhana. On going through the said application it reveals that general allegation is levelled against the present non-applicant Nos.2 to 4. No date, time is mentioned as to the incident of threatening. As far as the other crime on which the applicants placed reliance on is regarding the complete different incident.

11. It is well settled that while considering the application for grant of bail, the considerations are different than the considerations for cancellation of bail. The overwhelming and supervening circumstances are required for cancellation of bail. The considerations for cancellation of bail are laid down by the Hon'ble Apex Court in the catena of decision ***Dolat Ram and ors vs. The State of Haryana, [1995(1) SCC 349]***, the Honourable Apex Court laid down grounds for cancellation of bail, which are as under:

- (i) interference or attempt to interfere with the due course of administration of Justice;
- (ii) evasion or attempt to evade the due course of justice;
- (iii) abuse of the concession granted to the accused in any manner;
- (iv) possibility of accused absconding;
- (v) likelihood of/actual misuse of bail, and
- (vi) likelihood of the accused tampering with the evidence or threatening witnesses.

12. It is no doubt true that cancellation of bail cannot be limited to occurrence of supervening circumstances. The court has discretion to cancel the bail of an accused even in the absence of supervening

circumstances, in following circumstances:

- a) where the court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record;
- b) where the court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim;
- c) where the past criminal record and conduct of the accused is completely ignored while granting bail;
- d) where bail has been granted on untenable grounds;
- e) where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.

13. Thus, where a court considering an application for bail fails to consider relevant factors, the court has discretion to cancel the bail. While cancelling the bail, it has to be seen, whether the order granting bail suffers from non-application of mind or is not borne out from prima facie view of the evidence on record. Thus, it

is necessary for the court to see, whether on the basis of record there existed a *prima facie* case or reasonable ground to believe that the accused has committed crime.

14. In the light of the above considerations if the facts of the present case are taken into consideration except the allegation levelled which is general in nature, no other substance is produced on record to show that there is any apprehension to the life and limb of the present applicants at the hands of present non-applicant Nos.2 to 4. Thus, no circumstances are brought on record to show that if the applicants are continued to be kept on bail there is every apprehension of the life or any injury to the life or limb of the present applicants. As the application is devoid of merits, deserves to be rejected.

15. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)