



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

CRIMINAL APPLICATION (APPLN.) NO. 33 OF 2024

Mr Sheikh Farukh Sheikh Ismail

.Vs.

State of Maharashtra and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr Atharva C. Khadse, Adv. h/f. Mr S. P. Bhandarkar, Advocate for the applicant
Ms K. P. Marpakwar, APP for non-applicant No.1/State
Mr D. S. Khushalani, Advocate for non-applicant No.2 (Through VC)

CORAM : RAJNISH R. VYAS, J.

DATED : OCTOBER 09, 2025.

Heard.

2. This is an application, preferred by the original informant, praying for cancellation of bail granted to the non-applicant No.2, who is original accused No.1. The Crime bearing No. 890 of 2023 was registered against the non-applicant No. 2 for commission of offences punishable under Sections 394, 341 read with Section 34 of the Indian Penal Code.

3. In short, it was the case of the informant that on 10.10.2023, when he took certain material and articles in his vehicle from the shop of one Faijan Shaikh for distributing the same in other shops and when he was proceeding towards his destination four persons came on two bikes. Out of which Nazim Sarkar and Bismillah were known to the informant. However, two other accused were unknown.

4. According to the FIR, aforesaid four persons restrained the informant and Nazim Sarkar slapped the informant so also gave him fist blows and forcibly took out mobile and cash of Rs.5000/- from the pocket of the informant. So according to the FIR it was the Nazim Sarkar i.e. non-applicant No. 2, who has played active part in commission of offence.

5. Non-applicant No. 2, apprehending his arrest, preferred an application bearing Misc. Criminal Application No. 52 of 2024 before the Additional Sessions Judge, Kelapur, who vide its order dated 12.03.2024 extended benefit of anticipatory bail with a condition that non-applicant No. 2 shall not influence or issue threat to the witnesses. A condition was also put that non-applicant No.2 would attend the police station Paratwada on every Monday from 11:00 a.m. to 2:00 p.m. and will cooperate the investigating agency.

6. The original informant, by way of the present application, has contended that the non-applicant No.2 has not attended the police station and further he has threatened the informant which is clear from the non-cognizable receipt (Page 36) issued in favour of the informant.

7. Learned APP has also taken a stand that non-applicant No.2 has not attended the police station.

8. I had considered the record of the case so also the reply filed by the non-applicant No. 2. Non-applicant No.2

has brought to my notice acknowledgement given by the Investigating officer which clearly shows that on 18.03.2024, 21.03.2024, 22.03.2024, 25.03.2024, 27.03.2024, 30.03.2024, 01.04.2024, 08.04.2024, 15.04.2024, 22.04.2024, 29.04.2024, 06.05.2024, 13.05.2024, 15.05.2024, 20.05.2024, 03.06.2024, 10.06.2024, 17.06.2024 and 24.06.2024 he has attended the police station. Thus it is crystal clear that the non-applicant No.2 has cooperated the investigating agency.

9. So far as contention of the applicant that relevant material is not taken into consideration while granting the bail is concerned, perusal of the order would clearly show that parameters required to be adopted, while granting bail under Section 438 of the Code of Criminal Procedure, were duly taken into consideration. Just because non cognizable receipt is issued, it will not lead to conclusion that non-applicant No.2 has extended any threat. It would be a matter of inquiry and investigation. Nothing has been produced on record to show that non-cognizable receipt issued was taken to the logical end either by the applicant-informant or by the investigating officer.

10. In that view of the matter, no case is made out for interference. Therefore, the criminal application is **rejected**.

[RAJNISH R. VYAS, J]