



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

CRIMINAL APPLICATION NO.43 OF 2025

(Ashish s/o Jinendrakumar Jain Vs. State of Maharashtra and anr.)

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

Court's or Judge's Order

Ms A.A. Agrawal, Advocate for the applicant.
Mr. V.A. Thakare, APP for the State.
Mr. G. Gour, Advocate for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 29, 2025.

By this application, the applicant who is the original complainant is seeking cancellation of bail granted to the present applicant for a temporary period i.e. for 10 days by order dated 23/04/2025.

2. The application is filed on the ground that despite this Court has rejected the application by order dated 22/08/2022 and by the Hon'ble Apex Court in Special Leave Petition No.8980/2022 and by the order dated 17/12/2024 in Criminal Application (BA) No.971/2024. It is further submitted that while rejecting the earlier application this Court has observed that the informant was threatened by family members of the applicants. The informant's son was also threatened by some unknown persons. The informant has also received threats by telephonic calls. The statement of one witness Rahul Mishra substantiates the said contention. The

statement of Sandip Mishra further shows that the applicant No.1 i.e. Devendra Govind Goyal who is the co-accused threatened the son of the informant. Thus, there were efforts to restrain the witnesses from disclosing truth regarding the same FIR. The Sessions Court has not considered the same and allowed the application and released him on temporary bail for 10 days to the applicant without assigning any reason.

3. Learned Counsel for the applicant who reiterated the said contention and invited my attention towards the observation made by this Court while rejecting the application as well as the Hon'ble Apex Court has maintained the order of this Court and submitted that the Sessions Court without considering that there was repeatedly efforts by the present applicant and the other family members to tamper the prosecution evidence, he is released on bail by the Sessions Court, and therefore, the order passed by the Sessions Judge is without application of mind, and therefore, the it deserves to be cancelled.

4. Learned APP supported the contention of the learned Counsel for the applicant and submitted that the Hon'ble Apex Court has maintained the orders of this Court but the learned trial Court has not considered the same. Now, surgery of the father of the non-applicant is already over and there is no need to release the present applicant on bail. In view of that, the order passed by the

Sessions Judge deserves to be set aside and the bail granted to the present non-applicant deserves to be cancelled.

5. Learned Counsel for the accused/non-applicant supported the order of the Sessions Court and invited my attention towards the order passed by the Sessions Court and submitted that as the father of the present non-applicant who is aged about 66 years met with a road accident. As a result of which he sustained a right mastoid fracture along with small subarachnoid hemorrhage (SAH). Post-accident, further diagnostic imaging and evaluation revealed progressive spinal complications, and he was advised to undergo spinal fixation surgery and there is nobody to look after him and the applicant was intending to see his father, and therefore, by considering the said ground that is on humanitarian ground, therefore the application is allowed. He submitted that as the applicant is also involved in another crime, and therefore, he is not released after passing of this order also.

6. I have heard learned Counsel for both the sides and on perusal of the impugned judgement, it reveals that the father of the applicant met with a road accident and he has to undergo the surgery, therefore, by considering the medical ground that his father needs a special care, and therefore, the trial Court has considered

the said application and released the non-applicant on bail for the period of 10 days. The medical documents filed on record now sufficiently shows that the surgery is already performed and he is under treatment only for the observation and admitted in the Wockhardt Hospital as the father of the non-applicant is suffering from the bilateral lower limb weakness secondary to lumbar synovial cyst and has underwent the surgery also. Thus, as far as the purpose for releasing the present non-applicant on bail is already over but considering his father met with an accident and is under treatment at the Wockhardt Hospital, the order passed by the Sessions Judge deserves to be modified instead of cancelling the same. As the order passed by the Sessions Judge is considering that there was need to take care of the father, the applicant made a request for releasing him on bail, therefore, no error is committed by the learned Sessions Judge as the order is based on the documents which are produced before him. As the non-applicant was not released after passing of this order and during that period the surgery is already performed, therefore, only for the purpose of meeting his father, the order requires to be modified, and therefore, I proceed to pass the following order:

(i) The application is partly allowed.

(ii) The temporary bail is granted to the non-applicant for the period of 10 days in

Crime No.126/2021 registered with police station Tahsil, Nagpur is modified and now he is temporary release on bail for the period of five days from the date of his release and he shall meet his father and again surrender before the Superintendent of Central Prison, Nagpur on completion of five days.

(iii) The non-applicant shall not enter into the vicinity of Itwari within these five days period.

(iv) He shall also attend the police station regularly for these five days between 10.00 AM to 1.00 PM at Tahsil police station.

(v) A single incident of attempt or tampering would lead to the cancellation of bail automatically.

7. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)