



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

**APPLICATION FOR CANCELLATION OF BAIL NO. 105 OF 2024**

**RAJENDRA BANSI WAGH  
VERSUS  
SAVTA SHRIDHAR WAGH AND OTHERS**

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Advocate for Applicant : Mr. Gastgar Santosh B.

APP for Respondent No.2 and 3/State : Mr. K. K. Naik

Advocate for Respondent No.1 : Mr. Mayure Pramod C.

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**CORAM : MEHROZ K. PATHAN, J.**

**DATE : 6<sup>th</sup> FEBRUARY 2026**

**PER COURT :**

1. The cancellation of bail application is moved by the Applicant, who is the complainant in Crime No.687/2023, challenging the order dated 18.05.2024 passed by the Additional Sessions Judge, Ahmednagar, in Criminal Misc. Bail Application No.531/2024, releasing accused Savata Shridhar Wagh.

2. The learned Counsel for the Applicant Mr. Gastgar submits that taking into consideration the allegations against the accused Savata, this Court had shown its disinclination to grant anticipatory bail to Respondent No.1/Savta Wagh, upon which the learned Counsel withdrew the application. The order dated 31.10.2023 passed in ABA No.1310/2023 records the withdrawal of the application on behalf of Savata, as this Court was not inclined to grant relief. The order dated 31.10.2023 passed by this Court,

however, allowed the application of accused Dattatray. The learned Counsel therefore submits that once the application was withdrawn before this Court after taking into consideration the role played by the Applicant as seen from the allegations in the FIR, the learned Trial Court could not have entertained the said application merely on the ground of filing of the charge-sheet against accused Dattatray, which came to be filed on 21.01.2024. The learned Counsel therefore submits that, taking into consideration the allegations as reflected in the statements recorded during the course of investigation, there was no change in circumstances which would have warranted interference by the learned Sessions Court, despite the anticipatory bail having been dismissed as withdrawn vide order dated 31.10.2023 passed by this Court in ABA No.1310/2023. He therefore submits that the learned Trial Court has committed a grave error in allowing the said application.

. It is further submitted by Mr. Gastgar that accused-Respondent No.1 herein has a history of earlier disputes, as the Applicant and Respondent No.1 are related to each other and possess agricultural land adjacent to one another. The allegations against accused/Respondent No.1 are serious in nature, involving the cutting of the ear of the complainant/Applicant by assault with a dangerous weapon, namely a knife. The said knife has not been recovered during the interrogation permitted by the Trial Court while granting ad-interim relief. Thus Respondent No.1/accused Savata, even after grant of anticipatory bail, has refused to cooperate with the investigation, resulting in non-recovery of the weapon, which has

caused serious prejudice to the prosecution case. As such, the bail granted to Respondent No.1/Savata vide order dated 18.05.2024 by the learned Sessions Judge, Ahmednagar, deserves to be interfered with by cancelling the same and directing that accused Savata be taken into custody.

3. As against this, the learned Counsel for Respondent No.1 Mayure vehemently opposes the application on the ground that the learned Sessions Judge has exercised judicial discretion by taking into consideration the discrepancy in the charge-sheet filed against accused Dattatray, which constituted a change of circumstance warranting interference by the Sessions Judge to re-examine the allegations made against Respondent No.1/Savata.

. It is further submitted that taking into consideration the discrepancy in the spot panchanama and the clothes recovery panchanama, it is stated that the accused assaulted the complainant, resulting in the amputation of the ear of the complainant. At some places, the statements of other witnesses also indicate that it was accused Savata who assaulted the complainant, resulting in the cutting of the ear of the complainant Rajendra. Thus, taking into consideration the discrepancy and the subsequent event of filing of the charge-sheet against accused Dattatray, which amounted to a substantial change in circumstances, the learned Trial Court has rightly exercised discretion and released accused Savata on bail.

4. The learned APP also supports the arguments of the

Counsel for the Applicant and submits that Respondent No.1/Savata, was directed to attend before the Investigating Officer and cooperate with the investigation. However, accused Savata failed to produce recovery of the weapon used in the crime, namely a knife, thereby causing serious prejudice to the prosecution case during trial. Though the charge-sheet was filed against accused Savata, the same was filed only after the grant of anticipatory bail by the learned Sessions Court vide order dated 18.05.2024. This Court may therefore pass an appropriate order on the present application.

5. I have gone through the charge-sheet made available for perusal of this Court by the learned APP. A perusal of the statements of the witnesses shows that there are discrepancies in the statements of the complainant, the spot panchanama, as well as the clothes recovery panchanama recorded in the presence of the father and wife of the complainant. It is seen that at some places it is stated that accused Dattatray assaulted the complainant, resulting in the amputation of the ear of the complainant, while at other places it is stated that accused Savata assaulted the complainant with a knife, resulting in the cutting of the ear. The injury certificate shows that one injury is grievous in nature, attributable to sharp weapon, while another simple injury, being a contused lacerated wound, appears to have been caused probably by a hard and blunt weapon and not by any knife. However, the said knife was not recovered either from accused Dattatray or from accused Savata, Respondent No.1 herein.

. Insofar as the exercise of discretion by the learned Sessions

Court is concerned, the same does not warrant any interference, as seen from the charge-sheet, since the application for grant of anticipatory bail was entertained only after the filing of the charge-sheet against accused Dattatray on 29.01.2024, which can be said to constitute a change of circumstance, taking into consideration the discrepancies in the statements, the spot panchanama, and the clothes recovery panchanama. It is however clarified that these observations about discrepancy, are only prima facie in nature and may not influence the trial Court.

6. The Hon'ble Supreme Court in the case of Abhimanue Etc. Vs. State of Kerala in Criminal Appeal Nos. 4197-4199/2025, has held as under :

*“Upon persuing the status report filed by the State, we find that the case was posted for “schedule trial” on 30<sup>th</sup> May, 2025 and thereafter the case has been listed on various dates. As per the charge-sheet, a total of 141 (one hundred forty-one) witnesses are to be examined. Of them, there are at least five witnesses who allegedly witnessed the crime. The trial will obviously take time to conclude. Bearing in mind that the appellants since grant of bail have not been involved in any similar or other offence, we prefer to lean in favour of liberty rather than its curtailment. Accordingly, while setting aside the impugned order, the appellants’ liberty is not curtailed subject to imposition of certain stringent conditions.”*

7. It is almost a settled law that the scope for interference in matters of cancellation of bail, where the accused has been released

after due application of mind by the trial Court, is very limited. It is only in the event of any supervening circumstances that the superior Court can intervene in the order releasing the accused on bail. No such circumstance or subsequent conduct of the accused has been brought to the notice of this Court, nor is there any material to show that the accused extended threats which could have caused prejudice to the prosecution case. Thus, in the absence of any material to show that the accused has violated any of the conditions, I am not inclined to interfere with the well-reasoned order dated 18.05.2024, wherein the learned Sessions Court exercised its discretion to release the accused on bail.

8. Taking into consideration the submissions made by the learned APP that neither accused Dattatray nor Respondent No.1, Savata, has handed over the weapon, namely the knife, used in the commission of the crime, even though Savata was directed to attend the police station and cooperate with the investigation, it would be in the interest of justice to direct Respondent No.1 to attend the police station once a week until framing of the charge by the learned trial Court. The attendance before the Investigating Officer shall be treated as deemed custody for the purposes of Section 23 of the Bharatiya Sakshiya Adhiniyam Act, 2023. Accused Savata, Respondent No.1 herein, is directed to cooperate with the investigation.

9. The accused Respondent No.1/Savata is directed not to

enter Village Sakegaon, Taluka Pathardi, District Ahmednagar, till the recording of the evidence of prosecution Witness No.1.

10. Violation of the aforesaid condition shall entitle the Applicant/complainant or the State to seek cancellation of bail of Respondent No.1.

11. With the aforesaid directions, the application for cancellation of bail stands disposed of.

**MEHROZ K. PATHAN**  
**JUDGE**

*NATJEES..*