

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

CRIMINAL APPLICATION NO. 1469 OF 2015

Smt. Ashwini Amol Rahinj,
Age about 23 years, Occ. Housewife,
R/at. Manegaon, Tal. Sinner,
Dist. Nasik

...Applicant

versus

1. State of Maharashtra,
Through Sangamner Taluka Police
Station, Sangamner, Ahmednagar

2. Shri Amol Raosaheb Rahinj,
Age: 27 years, Occu.: Service,
R/at. Vill. Pimparne,
Tal. Sangamner, Dist. Ahmednagar

...Respondents

.....
Mr. R. R. Singh, Advocate for applicant
Mr. N. T. Bhagat, A.P.P. for respondent/State.
Mr. R. K. Temkar, A.P.P. for respondent No. 2
.....

CORAM : N.W. SAMBRE, J.

DATE : 14th OCTOBER, 2015

ORAL ORDER :

Heard learned Counsel for the applicant. The present application is filed for cancellation of bail granted by the Additional Session Judge, Sangamner to the respondent No. 2 in Crime No. I-22/2015 for the offence punishable under Sections 376(b) and 420 of the Indian Penal Code on 24/02/2015.

2. It is not in dispute that the applicant and complainant are husband and wife and there is a decree of divorce by mutual consent in H.M.P. No. 148 of 2014 decided on 05/01/2015. Subsequent thereto, the complainant after divorce decree, filed complaint in question alleging that after the decree for divorce by mutual consent between 05/01/2015 to 28/01/2015, respondent-original accused has committed an offence punishable under Sections 376(b) of the Indian Penal Code.

3. After registration of the offence, learned Court below has granted the anticipatory bail of which cancellation is sought.

4. Learned Counsel for the applicant strenuously urged that, grant of bail by the learned Sessions Judge in the present case is upon incorrect appreciation of facts and evidence. He would urge that the decree for mutual divorce was obtained by playing fraud and misrepresentation by the non-applicant husband. In addition to above, according to him, there is a *prima facie* evidence available against the respondent No. 2, and learned Sessions Judge was not right in granting the bail application. Apart from above he would submit that, there are threats by the original accused to the applicant and her relatives after Court below has granted bail in the matter.

5. While opposing the request for cancellation of bail, learned Counsel for the respondent No. 2/ original accused would urge that the Court below having satisfied about prima facie case about non-involvement of the accused in the offence in question, has granted the bail. According to him, the parameteres for cancellation of bail as are laid down in the catena of judgment are not at all satisfied and this Court should be very slow in exercising the power of granting bail.

6. Learned A.P.P. adopted the arguments advanced by the learned Counsel for respondent No. 2.

7. From the record, it depicts that the applicant herein alongwith respondent No. 2/accused have made jointly request to learned Court of Civil Judge, Senior Division in H.M.P. No. 148 of 2014 for grant of divorce by mutual consent, which application came to be allowed by order dated 05/01/2015. If the applicant has any grievance about the same, the remedy lies somewhere else and not in the present application seeking cancellation of bail on the ground of obtaining decree for divorce by mutual consent by practicing fraud on the complainant.

8. In view of above, in my opinion, the parameters as are required to be taken into account for cancellation of bail are at all not established in the present case. Learned Sessions Judge having considered the merits of the matter has rightly granted the bail, as such, no case for interference is made out. The application stands rejected.

[N.W. SAMBRE, J.]