

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

32. CRI.APPLN/3003/2014 WITH CRI.APPLN/3006/2014 WITH
CRI.APPLN/3009/2014 WITH CRI.APPLN/3010/2014

THE STATE OF MAHARASHTRA
V/S
SHRIMANT M. KSHIRSAGAR

Mr. N.B. Patil, APP for State/applicant.

Mr. S.R. Pande, Advocate for respondents.

CORAM : T.V. NALAWADE, J.
DATED : 9th March, 2015.

ORDER :

1. All the applications are filed by the State under section 439 (2) of Criminal Procedure Code for cancellation of regular bail granted to respondents by the learned Additional Sessions Judge, Majalgaon, District Beed in a crime registered for the offences punishable under sections 376 (1), 366-A, 363 and 34 etc. of I.P.C. and few sections of Protection of Children from Sexual Offences Act, 2012. Both the sides are heard. This Court has perused the record of investigation.

2. The crime is registered on the basis of report given by father of victim girl. The age of the victim girl was 16 years at the relevant time. He has made allegations that on the night between 28.11.2013 and 29.11.2013 when he and his family

members including the victim girl were sleeping, the victim girl was taken away from the house. He noticed the victim girl was missing only on the next day morning. He expressed suspicion against one Shubham Jadhav, aged about 19 years. He has suspicion that he had established relations with victim girl and he had taken her away.

3. There is statement of victim girl which is to the effect that she was forcibly taken out of her residential place by Shubham on that night. She has made allegations that some substance was administered her and due to that she became unconscious. She has made allegations that when she became conscious, Shubham had probably committed rape on her. She has contended that when she was taken to a place, the relative of Shubham including his mother had come there. However, she has contended that those persons had taken her to police station and there her statement was recorded. This Court has gone through the record of medical examination. This Court is avoiding to discuss the observations made by the Medical Officer.

4. It is surprising that the State has filed application for cancellation of bail granted to respondents when they allegedly

abated the act of offence of kidnapping committed by Shubham Jadhav. The names of many were not taken by the prosecutrix in her statement and their names were not taken in the F.I.R. also. This Court has no hesitation to observe that filing of such applications against the respondents is nothing, but the mischievous act on the part of the investigating agency. Atleast the legal officer ought to have taken care to see that such proceedings are not filed only because investigating agency was asking for it. This Court could have considered the application filed against Shubham. In view of the nature of allegations made against the respondents, who allegedly abated act of Shubham, this Court holds that any court would have granted relief of bail to them. No exceptional case is made out for cancellation of relief of bail granted in favour of respondents.

5. In the result, all the applications stand rejected.

[T.V. NALAWADE, J.]

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