

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

Criminal Application No.5551 Of 2014.

**Radha Prakash Giri.
Versus.
The State of Maharashtra & Ors.**

Appearance =>

Mr. M.D. Gite, Advocate for the Applicant.

Mrs. Pratibha Bharad, Additional Public Prosecutor for the Non-Applicant – State.

Mr. V.G. Sakolkar, Advocate for Non-Applicant No.2.

CORAM : V.M. Deshpande, J.

DATE : 19th June, 2015.

Per Court :-

This is an application filed under Section 439 (2) of the the Code of Criminal Procedure for cancellation of anticipatory bail granted by the Additional Sessions Judge, Ambajogai vide order dated 11th September, 2014 passed in Cri.M.A.No.196/2014, by which it was directed that, in the event of arrest, the applicant therein (Osmankhan Sarwarkhan Patel) be released on anticipatory bail in connection with CR No.46/2014 registered with Yusuf Wadgaon Police Station, for the offences punishable under Section/s 354, 323, 504 and 506 of the Indian Penal Code.

[2] Heard Mr. M.D. Gite, learned counsel for the Applicant, Mrs. Pratibha Bharad, learned Additional Public Prosecutor for the Non-Applicant – State and Mr. V.G. Sakolkar, learned counsel for Non-Applicant No.2.

[3] The present applicant is the prosecutrix herself. The face value of the First Information Report would reveals that present applicant has not touched the private part of the prosecutrix. Those allegations are against other accused persons, who are already released on bail, by the learned trial court.

[4] While granting anticipatory bail in favour of Non-Applicant No.2 it is observed by the learned Additional Sessions Judge that, long standing dispute is pending between the prosecutrix and the present Non-Applicant No.2, before the Civil Court as well as before the Revenue Court.

Both are having their agricultural lands adjacent with each other. One of the consideration for grant of anticipatory bail is availability of the accused to the course of justice. It is pointed out that Non-Applicant No.2 is aged about 65 years is practicing lawyer at Kaij, District – Beed and Beed. In that view of the matter, it cannot be said that he will not be available for trial.

[5] Looking to the nature of the accusation made in the First Information Report, the learned trial court, in my view has correctly exercised the discretion in favour of Non-Applicant No.2. Further it is pointed out that investigation agency after completing the entire investigation has already filed the charge sheet before the court of law.

[6] Since discretion exercised in favour of Non-Applicant No.2 by the trial court is judicious one; no case is made out for cancellation of anticipatory bail. Hence, I pass the following order :-

ORDER

Criminal Application is rejected.

(V.M. DESHPANDE, J.)