

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
CRIMINAL APPELLATE JURISDICTION.**

Criminal Writ Petition No. 1573 Of 2014.

MEGHRAJ S/O DATTU KUCHEKAR.
VERSUS
NAVNATH S/O. RAMBHAU KADKE & ANR.

Appearance =>

Mr. S.J. Salunke, Advocate for the Petitioner.

Mr. V.D. Godbharle, Additional Public Prosecutor for the State of Maharashtra / Respondent No.2.

CORAM : V.M. DESHPANDE, J.

DATE : 23rd FEBRUARY, 2015.

Per Court :-

Present Writ Petition can be disposed of even without issuing notice to Respondent No.1.

[2] I have heard Mr. S.J. Salunke, learned counsel for the petitioner and Mr. V.D. Godbharle, learned Addl.Public Prosecutor for Respondent No.2.

[3] Present petitioner is the first informant. On the basis of First Information Report lodged by him, CR No.111 Of 2014 came to be registered with Police Station, Yusuf-Wadgaon, Dist. Beed on 13rd August, 2014 against present Respondent No.1 – Navnath Rambhau Kadke and others for the offences punishable under Section.s. 341, 504, 506 read with 34 of the Indian Penal Code and under Section 3(1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

[4] Respondent No.1, in view of the directions given to him by this Court, in the proceedings to secure the bail, surrendered himself before the trial court and filed application for bail vide Cri.M.A.No.409/2014. The learned Additional Sessions Judge, Ambajogai vide his order dated 7th November, 2014 allowed said application and Respondent No.1 was released on bail by imposing certain conditions.

[5] One of the condition was that Respondent No.1 / accused shall attend Police Station, Yusuf-Wadgaon, Dist. Beed twice in a week on every Sunday and Wednesday in between 6.00 p.m. to 8.00 p.m. till filing of the charge-sheet. Other conditions were also imposed such as, Respondent No.1 shall not pressurize the witnesses, not to interfere with the investigation in any manner and shall not tamper with the prosecution witnesses.

[6] Present petitioner / first informant filed an application under Section 439 (2) of Criminal Procedure Code; since according to the present petitioner, Respondent No.1 has committed breach of conditions imposed upon him at the time of enlarging him on bail. Said application was registered as Cri.M.A.No.432/14. Respondent No.1 resisted the plea moved by the present petitioner for cancellation of his bail.

[7] The learned Additional Sessions Judge, Ambajogai on 5th December, 2014 after hearing the parties to the application for cancellation of bail was pleased to reject the said application. While rejecting the application for cancellation of bail, the learned court below has directed the petitioner – Meghraj Dattu Kuchekar to pay compensatory costs of Rs.2500/- [Rs. Two Thousand five hundred.]. Present Writ Petition is directed against the imposition of said compensatory costs only.

[8] The learned counsel for the petitioner has restricted the prayer only to the extent of cost. Thus, by way of present petition, the petitioner prays that costs imposed upon him should be waived.

[9] In this background, this court is of the view that, no notice is required to be issued to Respondent No.1 / original accused.

[10] The learned trial court has not rejected the application for cancellation of bail, on the ground that informant has no locus to file the application for cancellation of bail. In fact, in view of the observation made by the Hon'ble Apex Court in case of R.Rahinam V. State (AIR 2000 SC 1851) either the State or any aggrieved party can move application for cancellation of bail. In the present case, application for cancellation of bail was moved by first informant. The criminal law is set into motion by the present petitioner only. Therefore, if the bail is granted in favour of Respondent No.1, present petitioner is an aggrieved party.

[11] The learned trial court has rejected the application for cancellation of bail, on the ground that the petitioner has failed to make out a case for cancellation of bail, in as much as, respondent No.1 has pointed out in his evidence that he has attended the police Station, as directed by the court, granting bail.

[12] The impugned order in my considered view does not show any compelling circumstances to impose compensatory costs, on the aggrieved party. It is different thing that the petitioner may not be successful in his adventure before the learned court below in getting bail cancelled however, at the same time, it is necessary to point out the circumstances which according to him are the circumstances which require to be considered for cancellation of bail. Merely because those circumstances are not considered

favourably, by the court below that by itself cannot be a ground for imposing the costs.

[13] Further in paragraph No.3 of the impugned order, Respondent No.2 / the investigating officer has submitted no objection to the application filed on behalf of the petitioner for cancellation of bail. In that view of the matter, order dated 5th December, 2014 imposing compensatory cost of Rs.2500/- against present petitioner needs to be quashed. Accordingly, order dated 5th December, 2014 passed by the learned Additional Sessions Judge, Ambajogai qua in Cri.M.A.No.432 Of 2014 is set aside to the extent it imposes compensatory costs of Rs.2500/-. Remaining order is maintained. Rule is made absolute.

(V.M. DESHPANDE, J.)