

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

CRIMINAL APPLICATION NO.529 OF 2016

Mahadu s/o Ganpat Dharme,
Age 54 years, Occu. Labour,
R/o C/o Dhokratkar House No.A-4,
Sanjay Nagar, Aurangabad,
Taluka and District Aurangabad

..Applicant

Versus

1. The State of Maharashtra,
Through Investigation Officer,
Jinsi police Station, Aurangabad,
Taluka and District Aurangabad

2. Sudam Vithal Shinde,
Age Major, Occu. Labour
R/o Bhawani Nagar, Galli No.7,
Jinsi, Aurangabad

3. Kantabai Vithal Shinde,
Age Major, Occu. Labour,
R/o as above

..Respondents

Mr R.J. Nirmal, Advocate for applicant
Mr M.M. Nerlikar, A.P.P. for respondent No.1

CORAM : N.W. SAMBRE, J.

DATE : 1st February 2016

PER COURT

Heard.

2. The respondents No.2 and 3 herein were released on regular bail by the learned Sessions Judge by order dated 8th January 2016 passed below Exh.1 in Bail Petition No.25 of 2016, in Crime No.I-402/2015 for the offences punishable under Sections 306, 498-A, 323 and 504 of Indian Penal Code of which cancellation is sought by the applicant under Section 439 (2) of Cr.P.C.

3. Perused the contents of F.I.R. and the order passed by learned Additional Sessions Judge, Aurangabad on 8th January 2016.

4. While trying to make out a case for cancellation of bail on merit, the learned Counsel for the applicant would strenuously urge that the offence with which the respondents No.2 and 3 are booked is serious one and punishable for more than seven years. He would then urge that if the death has occurred within seven years from the date of marriage, there is presumption under Section 113-A of the Evidence Act against the respondents No.2 and 3.

5. Learned A.P.P. assisted the Court and submitted that the Court may pass appropriate order.

6. Prima facie, it does not appear to be the case of prosecution that the respondents No.2 and 3 have misused their liberty or jumped the condition after they were released under Section 439 of Cr.P.C. Apart from above, it is required to be noted that the learned Sessions Court once having exercised the discretion while releasing the respondents No.2 and 3 on bail, cannot be said to have erred in law, unless the reasons cited in the order are perverse.

7. In my opinion, no case for cancellation of bail granted to respondents No.2 and 3 is made out, particularly when the respondents No.2 and 3 have not misused their liberty or jumped the condition. As such, Criminal Application stands rejected.

(N.W. SAMBRE, J.)

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