

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

CRIMINAL APPLICATION NO.2272 OF 2015

Atul Vithal Shirsath
Age 39 years, Occu.Aгри.,
R/o At Post Nandane,
Taluka and District Dhule

..Applicant

Versus

The State of Maharashtra
through Police Station Officer,
Songir Police Station,
Taluka and District Dhule

..Respondent

Mr S.P. Brahme, Advocate for applicant
Mrs R.K. Ladda, A.P.P. for respondent No.1
Mr Amol S. Sawant, Advocate for respondents No.2 and 3

CORAM : N.W. SAMBRE, J.

DATE : 19th January 2016

PER COURT

Heard.

2. The present application is moved by the complainant for cancellation of bail granted to respondents No.2 and 3 by order dated 15th April 2015 by the learned Additional Sessions Judge, Dhule in Crime No.25 of 2015, for the offence punishable under Sections 420, 467, 468, 471, 201, 202, 120-B read with Sec.34 of Indian Penal Code.

3. The cancellation of bail is sought on merit, as according to Mr Brahme, in the facts and circumstances of the case, the respondents No.2 and 3 were not entitled to be released on pre-arrest bail. According to him, the main accused who were owners of Gut No.283 being divested part of Gut Nos.280, 284, 285 and 288, which was to

be the government property, to their own record and transferred the same by various sale-deeds. According to him, the respondents No.2 and 3 are the witnesses to one of the sale-deeds. He would further urge that the respondents No.2 and 3 are the residents of same village of which the land in question is located and are in relation to the purchasers and as such, were having knowledge about the area of Gut No.283 and extent of lawful holding of each of the vendors.

4. Learned Counsel for the respondents No.2 and 3 then would urge that the report of the Tahsildar, called pursuant to a request by the Investigating Officer, in view of complaint of the applicant speaks about the illegality committed by the respondents No.2 and 3. According to him, in this background, there is prima facie involvement of respondents No.2 and 3 and as such, bail granted to them be cancelled.

5. Learned A.P.P. and Counsel for the respondents No.2 and 3 supported the order.

6. It is required to be noted that learned Sessions Judge allowed the application by order dated 15th April 2015 by giving cogent reasons. One of the important reasons narrated is, status of the applicant in the crime in question as that of witness to the sale-deed. Role of the witness to a sale-deed is specifically discussed by learned Sessions Judge. In my opinion, the learned Sessions Judge was right in observing that it is not necessary that the witnesses must accept and verify the truthfulness of the transaction in question.

7. In my opinion, the learned Sessions Judge as such was right in granting pre-arrest bail, as the record pertaining to crime in question was available in black and white in the custody of the revenue authorities and custodial interrogation of the applicants was not necessary. As such, Application fails, stands rejected.

(N.W. SAMBRE, J.)

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