

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

CRIMINAL APPLICATION NO. 2459 OF 2015

Sanjay S/o. Shripat Bhingare,
Age : 47 years, Occu. Service,
R/o. Boudh Nagar, Jawahar Colony,
Aurangabad.

... Applicant

VERSUS

The State of Maharashtra & Anr.

... Respondents

.....
Mr S. G. Laddha, Advocate for applicant
Mr S. M. Ganachari, APP for respondent/State
.....

CORAM : **N. W. SAMBRE, J.**

DATE : **8TH JANUARY, 2016.**

PER COURT:

. This is an application by the complainant for cancellation of pre-arrest bail granted by the learned Additional Sessions Judge, Aurangabad vide order dt. 28th April, 2015 in Criminal Bail Petition No. 376 of 2015 in Crime No. 3034 of 2015 registered for the offence punishable under Section 3 (i) (x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1985 (for short "the Act").

2. While seeking cancellation of bail, the learned Counsel for the applicant/complainant would urge that, the order granting bail is not

sustainable in view of the bar u/s 18 of the Act. He would then urge that, on merits also, the accused was not entitled for pre-arrest bail as the incident took place in full public view. In support of this contention, he relied upon the judgment of the Hon'ble Supreme Court in the case of **Shakuntla Devi Vs. Baljinder Singh** reported in 2013(3) Bom.C.R. (Cri) (S.C.) 184 and order dt. 6th April, 2015 of this Court passed in Criminal Applications No. 2803 and 2011 and 6632 of 2014 and seeks cancellation of bail granted to the accused/non-applicant No. 2.

3. With the assistance of the learned counsel for the applicant, the APP and the counsel for accused, I have perused the impugned order passed by the learned Additional Sessions Judge, granting bail to the accused/non-applicant.

4. The Id. Sessions Court has proceeded to grant bail perhaps on the ground that the likelihood of false implication of the accused in the present case cannot be ruled out.

5. Admittedly, there exists a departmental proceedings pending against the present applicant. The fact remains that the above referred issue has prevailed before the Sessions Court while granting protection in favour of the accused/non-applicant No. 2.

6. Granting bail to the accused is not absolved in open charges levelled against him, he shall face the prosecution. Though the Id. Counsel has relied upon the judgment (cited supra), the fact that the Id. Sessions Court has proceeded on the issue of the pendency of the departmental proceedings against the complainant and the likelihood of the false implication of the accused forms to be a basis which are not dealt with in the above referred judgment. As such, application fails and same stands rejected.

[N. W. SAMBRE]
JUDGE

sgp