

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

CRIMINAL APPLICATION NO.5666 OF 2015

Manoj s/o Devman Kuche
Age 29 years, Occu. Private
Service/Agriculture,
R/o Takali Rajarai,
Taluka Khultabad,
District Aurangabad

..Applicant

Versus

1. The State of Maharashtra,
Through its PI Police Station,
Khultabad Taluka Khultabad,
District Aurangabad

2. Shaikh Munir s/o Shaikh Abbas,
Age 45 years, Occu. Service,
R/o Takali Rajarai,
Taluka Khultabad,
District Aurangabad

..Respondents

Mr K.D. Jadhav, Advocate for applicant
Mr U.S. Mote, A.P.P. for respondent No.1

CORAM : N.W. SAMBRE, J.

DATE : 21st January 2016

PER COURT

Heard.

2. Learned Additional Sessions Judge, Aurangabad, by order passed below Exh.1 in Bail Petition No.1388 of 2015 dated 15th September 2015 has granted pre-arrest bail in favour of respondent No.2 herein, of which cancellation is sought by the present applicant, who is original complainant in the matter.

3. Mr Jadhav has made two fold submissions, (a) that the order which is questioned herein does not speak of any reasons which are germane to the cause for releasing the respondent No.2 on pre-arrest bail, as according to him, what weighed before the learned Additional Sessions Judge was the grant of ad interim protection in favour of other accused persons in the same crime, for granting the permanent pre-arrest bail, (b) according to learned Counsel for the applicant, custodial interrogation of the applicant is not necessary, particularly in the background of allegations made in the F.I.R., as he being Post Master has withdrawn the amount from the accounts which were opened in the name of various job card holders.

4. Mr Jadhav then would urge that the original complainant was called upon to justify his submission based on the material so as to infer that the respondent No.2 was instrumental in withdrawing the amount from the accounts of job card holders. To substantiate the same, he has invited attention of this Court to the job cards issued and the accounts opened in the name of two minors so as to submit that the said accounts were operated by present respondent No.2.

5. In my opinion, there is hardly any material on record to infer that the respondent No.2 - Post Master was instrumental in opening the accounts and withdrawing the amount from the account of said minors. Apart from above, no material is brought to the notice of this Court, which prompts for cancellation of pre-arrest bail ordered in favour of respondent No.2.

6. Apart from above, it is required to be noted herein that the prosecution has not come out with the case for cancellation of bail either on merit or on the ground of misusing the liberty or of jumping conditions.

7. In view of above background, no case for exercise of powers under Section 439 of Cr.P.C. is made out. Application fails, stands rejected.

(N.W. SAMBRE, J.)

vvr