

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

CRIMINAL APPLICATION NO. 6855 OF 2014

Vijayabai wd/o Vilas Kedare

... Applicant

VERSUS

The State of Maharashtra & Ors.

... Respondents

.....
Mr S. B. Rajebhosale, Advocate for applicant
Mr A. S. Shinde, APP for respondent/State
Mr A. R. Devakate, Advocate for respondents No. 2 to 4
.....

CORAM : N. W. SAMBRE, J.

DATE : 8TH JANUARY, 2016.

PER COURT:

. This is an application under Section 439(2) of the Code of Criminal Procedure for cancellation of bail granted to the non-applicants No. 2 to 4 by the learned Additional Sessions Judge, Jalgaon on 31st October, 2014 in Crime No. 206 of 2014 registered for the offences punishable under Sections 302, 304B, 498A read with 34 of the Indian Penal Code.

2. The learned Counsel for the applicant so as to make out a case for cancellation of regular bail would urge that, at the time of lodging of FIR on 26th June, 2014 the accused persons have informed the son

Rahul about the ill-health of the deceased/daughter of the complainant namely; Vaishali and when was factually verified, it was found that the deceased Vaishali has certain injuries on her body when she was in custody of non-applicants No. 2 to 4. According to him, suppression of the said fact and further narration of the same to the Doctors also speaks of the mind of the present non-applicants and as such *prima facie* involvement of the non-applicants in crime in question cannot be ruled out. In addition, he would urge that this Court has rejected the pre-arrest bail to the non-applicants No. 2 to 4 on 10th September, 2014 in Criminal Application No. 4357 of 2014. However, the documentary evidence which was available before this Court, was taken into account by the learned Sessions Court while granting regular bail. According to him, on merits the non-applicants were not entitled for regular bail.

3. The application is opposed by the learned counsel for the non-applicants No. 2 to 4 whereas; the learned APP submits that this Court may pass an appropriate order in the matter.

4. The fact remains that the narration as is referred in FIR is at the behest of the Pankaj, the main accused, who is not released on bail. As such, the non-applicants cannot be blamed for supplying the incorrect information to the applicant.

5. Apart from the material that was produced before the learned Sessions Court while granting the regular bail, which is taken into account while granting the bail was permissible in law and in my opinion should be considered while granting bail. The nature of material i.e. documentary evidence which was taken into account is rather not disputed by the applicant before this Court or even before the Sessions Court. As such, the application fails and same stands rejected.

[N. W. SAMBRE]
JUDGE

sgp