

(1)

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

CRIMINAL APPLICATION NO.6760 OF 2013

Sarlabai w/o Vijay Patil

..APPLICANT

VERSUS

The State of Mah. & ors.

..RESPONDENTS

Mr A.D. Pawar, Advocate for applicant;
Mr N.N. Desale, Advocate for respondents no.2 to 8

CORAM : N.W. SAMBRE, J.

DATE : 11th January, 2016

ORDER :

By the present application under section 439 (2) of the Code of Criminal Procedure, the applicant – complainant seeks cancellation of pre-arrest bail granted to respondents no.2 to 8, in connection with C.R. No.237 of 2013, registered with Shirpur police station, for offences punishable under sections 395, 452, 147, 148, 149, 323, 504, 506 and 427 of the Indian Penal Code, by order dated 7th October, 2013, passed by Additional Sessions Judge, Dhule, in Criminal Bail Application No.723 of 2013.

2. Learned Counsel appearing on behalf of the applicant, while trying to make a case for cancellation of bail, would urge that custodial interrogation of respondents no.2 to 8 was necessary as the property

(2)

stolen in the commission of the crime is yet to be recovered from them. Apart therefrom, he would urge that respondent no.2 is history sheeter and invited attention of this Court to the offences registered against him. He would then urge that the present applicant was falsely implicated by respondent no.2 in the crime, as at the behest of the applicant the challenge is raised to his caste as he was elected from reserved category.

3. With the assistance of the learned Counsel for the parties, I have perused entire case papers.

4. Of the six offences, in one offence respondent no.2 was imposed fine for minor offence, whereas in other offences, he was already acquitted.

5. Learned Sessions Court, while granting pre-arrest bail was alive to the fact as regards recovery to be made from the accused persons, however, has by relying upon the judgment of this Court in the matter of Antonio Schastio Mervya vs. State of Goa & ors., reported in 2008 ALL MR (Cri.) 2432, has granted the pre-arrest bail.

6. In my opinion, once it is not the case of the prosecution that respondents no.2 to 8 have jumped the terms and conditions of bail, the liberty on which they were enlarged, needs no further curtailment.

(3)

7. In view thereof, the Criminal Application fails and stands rejected.

(N.W. SAMBRE, J.)

amj