

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO. 2760 OF 2016**

Vaman Pandurang Rupnawar & ors. ... Petitioners.  
Versus  
The State of Maharashtra & anr. ... Respondents.

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Mr. Rupesh A. Zade, advocate for petitioners.

Mr. Prashant Jadhav, APP for State.

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**CORAM : SMT. SADHANA S. JADHAV,J  
DATE : AUGUST 25, 2016**

**P.C.:**

1 Heard the learned Counsel for the Petitioners and the learned APP for State. Perused the papers.

2 By this petition, the petitioners have prayed for quashing and setting aside of an order dated 16/7/2016 passed by the learned Additional Sessions Judge, Baramati in Cri. Misc. Appl. No. 10 of 2016, whereby an order granting Anticipatory Bail in favour of the Petitioners was recalled.

3     The Petitioners herein have been charge-sheeted for offence punishable under Section 323, 504, 506 read with Section 34 of the Indian Penal Code and Section 3(1)(X) of Prevention of Atrocities (Scheduled Caste and Scheduled Tribe) Act. It appears that after registration of Crime, the Petitioners had approached the Court of Sessions seeking pre-arrest bail. By an order dated 8<sup>th</sup> December, 2015, the Petitioners were granted pre-arrest bail by the learned Sessions Judge, Baramati upon imposing certain conditions, which are as follows :

“(3) They shall attend the I.O. on every Monday and Saturday in between 2 p.m. to 5 p.m. till filing of the charge-sheet.

(4) They shall not directly or indirectly induce, threat or promise to any person acquainted with facts of the case, so as to dissuade the said fellow from disclosing said facts from the investigating agency.

(5) This will remain in force till trial is over with the only stipulation that if charge-sheeted. Applicants/Accused may furnish fresh bond before trial Court, in view of judgment of Hon'ble Supreme Court in the case of 'Siddharam Satlingappa Mhetre v/s. State of Maharashtra and Others', reported in “AIR 2011 SC 312”.”

4 It appears from the record that the petitioners had not abided by the condition No. 3 and had not attended the police station even once. Therefore, the complainant had taken upon herself the job of the Investigating Officer and had filed an application under Section 439 of the Code of Criminal Procedure, 1973 seeking cancellation of pre-arrest bail granted in favour of the petitioners vide order dated 8/12/2015 on the ground that the accused/petitioners had committed breach of the condition imposed upon him.

5 It is pertinent to note that the application was filed on 6/2/2016. This Court cannot be oblivious of the fact that the Investigating Officer or the State machinery had not filed any application seeking cancellation of pre-arrest bail on the ground of breach of condition against the petitioners.

6 The learned Sessions Judge upon considering the fact that there has been breach of the condition imposed upon the Petitioners had

recalled the order granting bail, vide order dated 16/7/2016 and had allowed the application filed by the complainant.

7 The learned Counsel for the petitioners submits that in fact, their brother has got married with the complainant, who belongs to the scheduled caste, 20 years prior to the incident. It is submitted that there is a civil dispute pending between the complainant and the Petitioners. The learned Counsel submits that it is a dispute within the family, and the complainant by taking advantage of her caste has initiated prosecution against the Petitioners.

8 However, irrespective of the facts of the case, what needs to be considered is that the Petitioners have committed breach of condition imposed upon him by the learned Sessions Judge. The petitioners shall appear before the Special Court at Baramati on 31<sup>st</sup> August, 2016 and file an application under Section 437 of the Code of Criminal Procedure, 1973 and the same shall be considered on its own merits. The application shall be disposed of on the same day.

The learned Special Court/Magistrate/Sessions Court shall not be influenced by the dismissal of this Petition and shall consider the merits of the matter on the ground that the Petitioners have surrendered themselves to the custody of the court.

9 The Writ Petition is dismissed and disposed of accordingly.

**(SMT. SADHANA S. JADHAV,J)**