

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

**CRIMINAL APPLICATION NO.623 OF 2014
IN
CRIMINAL BAIL APPLICATION NO.192 OF 2012**

1. Yasmin Mohammad Memon Applicants
and Anr.

Vs

1.The State of Maharashtra and .. Respondents
Anr.

Mr. Sachin B. Chandan, Advocate for Applicants.

CORAM : R.G.KETKAR,J.
DATE : 08/02/2016

PC:

1. Heard Mr. Sachin Chandan, learned counsel for the applicants at length.

2. This Application is filed under Section 439(2) of the Code of Civil Procedure, 1973 (for short, 'Cr.P.C.') for cancellation of bail granted by this Court vide order dated 13.2.2012 in Criminal Bail Application No.192 of 2012.

3. Mr. Chandan strenuously contended that respondent no.2 had committed breach of conditions imposed by this Court while enlarging her on bail and in particular following conditions:

(iii) That the applicant shall not directly or indirectly induce/influence and/or pressurize any prosecution witness and/or give any threats to any prosecution witness.

(iv) That the applicant shall not, in any manner

whatsoever, tamper with prosecution evidence whatever.

4. He submitted that after respondent no.2 was granted bail, she came out of Adharwadi Jail on 25.2.2012. Respondent no.2 started harassing applicants and their family members. On 18.3.2012, the applicants and their family members assembled at the garage of applicant no.2 for ritual ceremonies. Respondent no.2 and some other anti-social elements (Goondas) came over there and threatened them with dire consequences to their life. They threatened applicant no.2 and stated that she had killed the father of applicant no.2 for grabbing property. Respondent no.2 demanded Rs.2,00,000/- for the purpose of getting bail of other accused involved in the offence, otherwise she would set them fire along with their garage.

5. On 23.4.2012, the applicant filed a complaint with Central Police Station, ACP-DCP, Commissioner of Police, Thane and Home Minister of Maharashtra. However, no cognizance has been taken by any authorities so far. Mr. Chandan submitted that accused nos. 2 to 6 were released on bail by Sessions Court, Kalyan subject to imposing conditions. Respondent no.2 and other accused are harassing and pressurizing applicants and witnesses. In fact, they have filed private complaint bearing no.614 of 2012 before the Court of Judicial Magistrate First Class at Ulhasnagar. Respondent no.2 and other antisocial elements are continuing with their illegal activities. Respondent no.2 has

filed another complaint for offence punishable under sections 420, 323, 504, 506, 452 read with section 34 Indian Penal Code, 1860 (I.P.C.).

6. On 24.10.2013, the applicants attended proceedings before Judicial Magistrate First Class at Ulhasnagar. In the Court premises, respondent no.2 and other accused assaulted and threatened the applicants with dire consequences. The applicants immediately lodged complaint with Central Police Station which has been treated as non-cognizable bearing No.2013/2014.

7. Mr. Chandan submitted that despite making several complaints to the police and other higher authorities, no cognizance was taken. The applicants therefore lodged complaint against respondent no.2 and others on 30.11.2013 for the offences punishable under sections 384,452,323,504, 596 r/w section 34 I.P.C. He submitted that even after lodging complaint against respondent no.2 and other accused, they are harassing the applicants and their witnesses. The applicants, therefore, made representation to the Maharashtra State Minorities Commission as also Human Rights Commission on 22.2.2014. the applicants also made representation to the Director General of Police, Hon'ble Home Minister, Assistant Police Commissioner, Deputy Police Commissioner, Police Commissioner in August 2014. He submitted that the bail granted to respondent no.2

deserves to be cancelled for violation of condition no. (iii) and (v).

8. I have considered the submissions advanced by Mr Chandan. I have also perused the material on record. Respondent no.2 was enlarged on bail on 13.2.2012. Respondent no.2 has lodged complaint on 13.7.2012 under sections 380, 448, 323, 504 and 506 read with 34 I.P.C. against applicants no.1 and 2. and others. Respondent no.2 has also lodged complaint against applicants and others under sections 420, 323, 504, 504, 452 read with 34 I.P.C in the year 2013. Though the applicants have alleged that on 18.3.2012 respondent no.2 and some other anti-social elements harassed applicants and their family members as also gave threats, on 23.4.2013 applicant no.1 made complaint to Hon'ble Home Minister and others. Though in paragraph 5 it is asserted that the applicants made complaint on 23.4.2012 to the various authorities, no material is placed on record to substantiate the said assertions. The parties have filed cross complaints against each other. The police authorities have not moved this Court alleging violation of the conditions imposed while enlarging bail granted to respondent no.2. Hence, no case is made out for cancellation of bail. Application fails and the same is rejected.

(R.G.KETKAR, J.)