

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPLN) NO.13/2016

Bhagwan Tukaram Jadhao Vs. TheState of Mah. Through PSO., PS., Amdapur,
District Buldhana and another.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. R.M.Daga Advocate for applicant.
Mr. C.H.Lokhande, A.P.P. for non applicant/State.

CORAM : S. B. SHUKRE, J.
DATE : OCTOBER 25, 2016

Heard the learned counsel for the
applicant and the learned A.P.P. for non applicant
no.1/State.

The report of Superintendent of Police,
Washim, dated 21st October, 2016 shows that the
respondent no.2 has been served with the notice on
10th October, 2016. The matter was listed on board
for hearing on 15th October 2016 and thereafter it is
listed today for hearing. On both these dates, the
respondent no.2, though duly served, remained
absent. Today, nobody is appearing on her behalf. It
appears that the respondent no.2 has got nothing to
say to the contentions raised in the application. This
application is filed under Section 439(2) of Cr.PC
seeking cancellation of the anticipatory bail granted

to the respondent no.2. It is a serious matter. In such a case, it is expected from the person whose bail is sought to be cancelled, that he or she appears before the Court and shows his or her obedience to the law. However, the respondent no.2 has failed to give any response whatsoever to this application. Such a conduct of respondent no.2 is certainly worthy of taking note for the Court.

In anticipatory bail matters, the conduct of the accused, here respondent no.2, is significant. From the conduct of the accused, if an impression is gathered that the accused is not likely to give respect to the law, the Court would be within its power to cancel the anticipatory bail granted to such an accused.

The order of the learned Sessions Judge, Buldhana, dated 05.02.2016 finds that as the respondent no.2 was resident of Risod, district Washim, the place situated far away from the place of incident, it was far fetched to imagine that the respondent no.2 could have actively taken part in the alleged physical and mental harassment. The allegations made by the complainant as well as other witnesses, prima facie, show that although the respondent no.2 was resident of different village, village – Gavandhala, situated at some distance from village Amdapur, the place of occurrence of the

incident, this respondent no.2, practically, and for all purposes, put up her camp in her paternal home at Amdapur. This could be seen from the material available on record. However, it appears that the learned Sessions Judge has not considered this vital aspect of the matter.

In the case of Samunder Singh Vs. State of Rajasthan and others, AIR 1987 SC 737, the Hon'ble Apex Court has expressed an opinion that the accused involved in unnatural deaths of the daughters-in-law are required to be dealt with all their seriousness and that belief should not be developed that the dowry deaths are even now treated with casualness by the Courts. The Hon'ble Apex Court then observed that the High Court should not have exercised its jurisdiction to release the accused on anticipatory bail having regard to the magnitude and seriousness of the matter involved in that case. This dimension, it appears, also has not been considered, especially when, the investigation was in progress at the time when anticipatory bail was granted, her anticipatory bail was granted on 05.02.2016 whereas, the investigation was completed on 23.06.2016, as on that date the charge sheet was filed.

Once it is seen that there is prima facie material available showing that the respondent no.2 for a greater portion of time used to be at paternal

home, the allegations made against her that she used to take equal part in giving physical and mental cruelty to the deceased, assume significance and require appropriate consideration.

Thus, I am of the view that the respondent no.2, who appears to have no respect for the law as seen from her conduct displayed in these proceedings, this is a fit case for cancellation of anticipatory bail granted to the respondent no.2. In order to prevent any prejudice being caused to respondent no.2, however, and to ensure that there is no miscarriage of justice, I am also of the view that anticipatory bail granted to respondent no.2 by the learned Sessions Judge, is directed to be continued for a period of two weeks from the date of this order to enable respondent no.2 to file appropriate application before the concerned Sessions Court for grant of bail, in view of change in circumstances after filing of charge sheet.

Accordingly the application is allowed. Anticipatory bail granted to respondent no.2 by the learned Sessions Judge, on 05.02.2016 vide Bail Application No. 33/2016, is hereby cancelled. However, in the interest of justice, interim protection in terms of the order dated 05.02.2016 of the learned Sessions Judge, is extended to respondent no.2 with liberty to her to file appropriate application before

the concerned Sessions Court for grant of bail on the ground of change in circumstances after filing of charge-sheet.

JUDGE

Andurkar

CERTIFICATE

I certify that this Judgment/Order uploaded is a true and correct copy of original signed Judgment/Order.

Uploaded by: J.S.Andurkar.

Uploaded On:27.10.2016