

(1)

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

CRIMINAL APPLICATION NO.3164 OF 2016

The State of Maharashtra,
Through : Police Inspector,
Kopargaon City Police Station,
Kopargaon, Dist. Ahmednagar. ..APPLICANT

VERSUS

1. Sou. Bodambai @ Sangita
Sukdeo Waikar, Age: 50 years,
R/o. Deokar Plot, Takli
Shivar, Tq. Kopargaon,
Dist. Ahmednagar.
2. Taidee @ Gayatri Ramchandra
Pimple, Age: 25 years,
r/O. Deokar Plot, Takli Shivar,
Tq. Kopargaon, Dist.Ahmednagar. ..RESPONDENTS

Mr S.D. Ghayal, Addl. Public Prosecutor for
applicant;

CORAM : N.W. SAMBRE, J.

DATE : 21st FEBRUARY, 2017

ORAL ORDER :

By order dated 28th October, 2015 in
registered with Kopargaon City Police Station,
District Ahmednagar, for offence punishable under
Sections 307, 395, 120-B, 326, 148, 143, 147, 149,

(2)

504, 506 of the Indian Penal Code with Sections 3/25 and 4/25 of the Arms Act and Section 3(1)(ii), 3(2) and Section 3(4) of the Maharashtra Control of Organized Crime Act, 1999, respondents-accused were ordered to be released on regular bail by learned Additional Sessions Judge, Kopergaon, District Ahmednagar, of which, cancellation is sought on the ground of registration of Non Cognizable Report.

2. Perused the contents of the complaint and other material available on record. Release of the respondents-accused is ordered, as they are not actively participated in the crime in question, particularly without use of any weapons.

3. So far as present application under Section 439(2) of the Code of Criminal Procedure for cancellation of bail is concerned, the prosecution has relied upon said non cognizable report. If the prosecution was so serious about the said issue of registering non cognizable report, the authority should have investigated the same and

(3)

brought some material before the Court so as to depict prima facie involvement of the accused persons in the crime in question, particularly as regards issuance of threats as claimed.

4. In absence thereof, in my opinion, it is difficult to infer that the respondents – accused have indulged in the act of issuing threats to the complainant or her family members, which prompts for cancellation of bail. As such, criminal application fails and stands rejected.

(N.W. SAMBRE, J.)

Tupe