

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 115 OF 2017**

- | | | |
|----|-------------------------------------|----------------|
| 1. | Anwar Ahmed Iqbal Ahmed Shaikh, | |
| 2. | Afsar Ahmed Shaikh | ...Applicants |
| | Versus | |
| 1. | Sufiya Khatoon Ashpak Ahmed Shaikh, | |
| 2. | State of Maharashtra | ...Respondents |

Mr. Satyajeet P. Dighe for the Applicants

Mr. S. G. Kudle for the Respondent No. 1

Mr. Prashant Jadhav, A.P.P for the Respondent No.2-State

PSI Mr. R. D. Pawar from Mumbai Naka Police Station, Nashik, is present

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 5th MAY, 2017

P.C.

1. Heard learned Counsel for the parties.

2. By this application, the applicants have impugned the order dated 9th January, 2016 passed by the Additional Sessions Judge-2, Nashik, by which the applicants' anticipatory bail came to be cancelled. Learned Counsel for the applicants prays that the impugned order be quashed and

set-aside and the order dated 14th October, 2016 granting anticipatory bail to the applicants, be restored.

3. The complainant is the sister-in-law of the applicants. She has lodged a complaint dated 5th October, 2016 as against the applicants, which was registered vide C.R. No. 265 of 2016 with the Mumbai Naka Police Station, Nashik for the alleged offences punishable under Sections 420, 406, 409, 417, 418, 465, 467, 468, 469, 471 r/w 34 of the Indian Penal Code.

4. Pursuant to the registration of the offence, the applicants filed an application under Section 438 of the Cr. P. C., before the Sessions Court and sought pre-arrest bail. The learned Sessions Judge vide order dated 14th October, 2016 granted pre-arrest bail to the applicants on certain conditions. One of the condition imposed by the learned Sessions Judge was that the applicants shall report to the Mumbai Naka Police Station on every Sunday between 1:00 p.m. to 6:00 p.m., till filing of the charge-sheet and to cooperate the Investigating Officer; and not to tamper prosecution evidence by any mode.

5. It appears that thereafter, the complainant addressed a letter to the Police Commissioner dated 18th October, 2016. In the said complaint letter, the complainant has alleged that the applicants and other family members were physically and mentally harassing her. She has alleged that after the anticipatory bail was granted to the applicants on 14th October, 2016, the applicants and other family members started harassing her and her children, they stopped their food and made life difficult for them. She has also alleged that the said persons were threatening her stating that they would kill her and that they would administer poison to her children and kill them. She has also alleged that the applicants were asking her to take back the cases and the said letter. She has, at the end, prayed that strict action should be taken against the applicants and that strict warning should be given to them.

6. It appears that the complainant thereafter filed an application seeking cancellation of the applicants' bail granted on 14th November, 2016 and the learned Judge vide order dated 9th January, 2016, was pleased to cancel the anticipatory bail granted to the applicants.

7. Admittedly, apart from the letter dated 18th October, 2016, no NC has been registered as against the applicants. Admittedly, the applicant No.1 is the brother-in-law of the complainant and all the family members are residing in the said premises. As far as merits of the order granting anticipatory bail are concerned, it is not necessary to go into the same, since no application has been filed either by the prosecution or the complainant, seeking cancellation of the order granting anticipatory bail to the applicants on merits.

8. The only question before me is whether order dated 9th January, 2016, cancelling the anticipatory bail of the applicants is proper or not. Hence, it is not required to go into the merits of the case.

9. Learned Counsel for the applicants denies the allegations made by the complainant. He submits that no harassment is being meted out to the complainant. He submits that on the contrary, the applicant No.1 is taking care of the educational expenses of the complainant's children and is looking after all the household necessities, since all of them are using a

common kitchen.

10. Learned Counsel for the complainant vehemently opposes the application. He submits that the complainant is a widow with three children and is being harassed by the applicants. He submits that the applicants and others have forged the complainant's signature. He further submits that a complaint was also lodged by the complainant to the Commissioner of Police setting out the harassment meted out to her by the applicants and others. He submits that no interference is warranted in the order dated 9th January, 2016. Learned A.P.P states that the applicants have been regularly attending the concerned police station as directed by the Sessions Court vide order dated 14th October, 2016 i.e. the applicants have been reporting to Mumbai Naka Police Station. He states that the investigation is almost complete and charge-sheet is likely to be filed within two months from today.

11. It appears that the applicants were granted anticipatory bail on 14th October, 2016 and the aforesaid complaint was lodged on 18th October, 2016, wherein the complainant has made allegations of threats given by the

applicants. Admittedly, no NC has been lodged pursuant to the said complaint then or even thereafter. The learned Judge has observed that the applicants have tampered with evidence and therefore has cancelled their bail. Admittedly, the applicants and the complainant are residing under one roof. It is not in dispute that the applicants have been attending the concerned Police Station on every Sunday as directed by this Court.

12. Considering the relations between the parties and the fact that no NC has been registered, pursuant to the complaint and the fact that there is no complaint thereafter and considering the fact that the applicants have been attending the police station as directed, the impugned order dated 9th January, 2016 passed by the learned Additional Sessions Judge-2, Nashik, is quashed and set-aside and the order dated 14th October, 2016 granting anticipatory bail to the applicants, is restored. The applicants shall continue to attend the concerned Police Station as directed by the order dated 14th October, 2016 till the charge-sheet is filed. The statement of the A.P.P is accepted that the charge-sheet in the said case will be filed within two months. Applicants to abide by the conditions of the order dated 14th October, 2016.

13. It is made clear that the observations made in this order, are restricted to this application.
14. The application is disposed of in the above terms.
15. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.