

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 527 OF 2016

Sunil @ Sonya Macchindra Ghule ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. Satyam H. Nimbalkar, Advocate for the Applicant.
Mr. Sooraj S. Hulke, APP for Respondent – State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **23rd March, 2017.**

P.C.:

This Application is moved for setting aside the order dated 11th August, 2016 passed by the learned Additional Sessions Judge, Pune cancelling the bail granted to the accused Sunil @Sonya Macchindra Ghule.

2. The brief facts of the case is as under:

The applicant/accused was prosecuted for the offence of rape under section 376 of the Indian Penal Code in C.R. No. 235 of 2010 on 25th November, 2010. He was arrested in the said case and was granted bail by the learned Additional Sessions Judge on 4th February, 2011. A murder of the brother of prosecutrix was committed in December, 2011 and therefore, the applicant/accused

was prosecuted for the offence punishable under section 302 of the Indian Penal Code in C.R. No. 7 of 2012. The prosecution thereafter moved an application for cancellation of bail in C.R. No. 235 of 2010.

3. The learned counsel for the applicant/accused has submitted that the order passed by the learned Additional Sessions Judge, Pune is perverse. The applicant/accused was released on bail in C.R. No. 7 of 2012, as there is no evidence against him. The learned counsel has submitted that initially the family of the prosecutrix has given missing complaint about the deceased and the body of the deceased was found two months thereafter. He submitted that the learned Additional Sessions Judge, Pune who granted bail to the applicant/accused by order dated 26th April, 2012 has observed that prima facie there is no strong evidence against the applicant and therefore, he was released. The learned counsel has further submitted that under such circumstances, the order of cancellation of bail in the offence of rape is illegal and is to be set aside.

4. Learned APP while opposing the Application supported the order passed by the learned Sessions Judge of cancellation of bail.

5. The Courts are slow in cancelling the bail once it is granted, as the grounds for rejection of bail and cancellation of bail are different. I have perused two orders granting bail to the applicant/accused and also the order of cancellation of bail. The applicant/accused is already facing the charge under section 376 of the Indian Penal Code in C.R. No. 235 of 2010. He was released on bail on 4th February, 2011 and thereafter the brother of the prosecutrix was murdered in December, 2011 and so the offence of murder under section 302 was registered against the applicant/accused in C.R. No. 7 of 2012. It appears that there is evidence of last seen together against the applicant/accused and body was found after two months as per the submissions of learned counsel for the applicant/accused. I am of the view that applicant/accused is facing the charge under section 376 of the Indian Penal Code and the brother of prosecutrix was murdered after his release on bail and also there is evidence of last seen together as discussed in the order, hence I do not find that the view taken by the learned Sessions Judge while cancelling the bail is illegal or perverse. The order passed by the learned Additional Sessions Judge is maintained. Application is dismissed.

6. It is to be noted that the case in C.R. No. 235 of 2010 is still

pending in the Sessions Court. The learned Sessions Judge, who is assigned the said case, is directed to expedite the trial within six months.

7. As per the request of the learned counsel for the applicant/accused, as the applicant/accused wants to approach the Hon'ble Supreme Court challenging this order, the order is stayed only upto 13th April, 2017. The applicant/accused to surrender thereafter on 14th April, 2017 if this order is not set aside.

(MRIDULA BHATKAR, J.)