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

CRIMINAL APPLICATION (APPLN) NO.38 OF 2015

M/s Esquitas Finance Company Ltd.,
having its Registered Office at
F/39, 4th Floor, Phase-II, Spencer
Plaza, 769, Anna Salai,
Chennai 600 002 through its Senior
Legal Manager/Power of Attorney
Holder, Prashant s/o Gajanan
Deotalu, aged 36 years,
R/o. Shivaji Nagar, Akola.

..APPLICANT

VERSUS

1. State of Maharashtra
through Police Station
Officer, Police Station,
Civil Lines, Akola.
2. Rahul s/o Shankarrao Madiwale,
Aged about 38 years,
Occ: Private Service,
R/o. V.H.B. Colony Gorakshan
Road, Akola,
Tah. and District Akola.

..RESPONDENTS

Mr A.B. Mirza, Advocate for applicant;
Mr. N.H. Joshi, Addl. Public Prosecutor for
respondent No.1;
Mr N.R. Tekade, Advocate for respondent No.2

CORAM : N.W. SAMBRE, J.

DATE : 17th MARCH, 2017

ORAL ORDER :

In Crime No. 154 of 2014 registered with
Civil Lines Police Station, Akola, for the offence

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punishable under Section 408 and 420 of the Indian Penal Code, respondent-accused was granted anticipatory bail on 19th January, 2015 with direction to attend the police station on fourth Sunday of the said month and thereafter every second and fourth Sunday till filing of the charge sheet. It is brought to my notice that respondent-accused neither has complied with the said condition nor co-operated in the investigation. As such, present application under Section 439(2) of the Code of Criminal Procedure for cancellation of bail.

2. It is also brought to my notice that there is other offence against the present respondent being Crime No. 445 of 2014 and there are other complaints also pending against him, which are under investigation.

3. The prosecution has supported the case of the complainant for cancellation of bail.

4. Learned Counsel for the respondent-accused

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submits that conditions are not complied, however, this Court should modify the said condition and dispense with presence of respondent-accused. In the alternate, he prayed that he be granted one more chance.

5. What could be gathered from the record is, liberty of the respondent-accused as was protected was misused by him by not co-operating investigation agency. The respondent-accused has failed to appear on fourth Sunday of the said month in which he was granted bail and thereafter on every second and fourth Sunday till filing of the charge sheet. It is required to be noted that because of non co-operation by respondent-accused, investigation in the matter is yet to be completed, charge sheet is not filed. It is only once the accused has appeared pursuant to the order of the Court, however, subsequent thereto, has shown disrespect and disregard to the order of the Court, whereby his liberty was protected. The respondent-accused appears to be involved in the other economic offences, which are required to be viewed more seriously.

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6. In view thereof, in my opinion, the application needs to be allowed.

7. The pre-arrest bail granted by this Court on 19th January, 2015 in favour of respondent-accused namely Rahul Shankarrao Madiwale in Crime No. 154 of 2014 registered with Civil Lines Police Station, Akola, for the offence punishable under Section 408 and 420 of the Indian Penal Code is hereby cancelled. He is directed to surrender before the Investigating Officer forthwith.

8. Criminal Application stands disposed of.

(N.W. SAMBRE, J.)

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Note: As per Court's order dated 12th April, 2017, correction in paragraph-5 is carried out.