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

CRIMINAL APPLICATION (APPLN) NO.41 OF 2016

The State of Maharashtra
Through Police Inspector,
Local Crime Branch,
Gondia
(P.S. Ramnagar, Gondia City) ..APPLICANT

VERSUS

Rahul s/o Hemraj Shriwas,
Aged about 26 years,
R/o Dus Kholi, Goushala Ward,
Gondia, Maharashtra ..RESPONDENT

Mr P.K. Sathianathan, Special Public Prosecutor for applicant

CORAM : N.W. SAMBRE, J.

DATE : 16th March, 2017

ORAL ORDER

By this application under Section 439 (2) read with Section 482 of the Code of Criminal Procedure, the applicant – State seeks cancellation of bail granted to the respondent by learned Additional Sessions Judge, Gondia, vide order dated 21st June, 2016, passed in Misc. Criminal Application No.132 of 2016, in connection with C.R. No.94 of 2016, registered with Police Station, Ramnagar, Gondia, for offences punishable under Sections 307, 353, 332, 294, 506 read with Section 34 of the Indian Penal Code.

2. The prosecution story, as could be gathered from the contents of the first information report and other material is, complainant Vishal claims that

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on 9th April, 2016, the respondent herein assaulted his father, who is a sitting M.L.A., at public place.

3. The respondent came to be arrested on 23rd May, 2016 and charge-sheet is filed on 15th July, 2016.

4. Mr Sathianathan, learned Special Public Prosecutor, while trying to make out a case for cancellation of bail would urge that after the incident in question, the respondent-accused had absconded and came to be arrested on 23rd May, 2016, i.e. almost after a period of more than one month. According to him, there is a seizure from the respondent and while effecting his arrest, he had gathered at the office of the Superintendent of Police with his supporters and tried to influence the investigation. He would then submit that CCTV footage and other material collected during the course of investigation depicts prima facie involvement of the respondent – accused in the crime in question and as such, according to him, bail granted to the respondent needs to be cancelled.

5. Perused the contents of the first information report, the order passed by the learned Sessions Judge granting regular bail to respondent on 21st June, 2016.

6. After arrest of the respondent on 23rd May, 2016, he was subjected to custodial interrogation and after completion of investigation, the charge-sheet came to be filed on 15th July, 2016. It is then to be noted that while

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releasing the respondent on bail, the learned Sessions Judge has considered all facets of the matter including that of CCTV footage available qua the purpose of inferring *prima facie* involvement of the respondent in the crime in question and happening of the incident at public place. Apart therefrom, it is also required to be noted that when the bail was granted, the respondent was subjected to custodial interrogation.

7. Having regard to the material on record, in my opinion, there appears to be a doubt as to whether an offence punishable under Section 307 of the Indian Penal Code in the instant case would attract or not. Be that as it may, the order of bail passed by the learned Sessions Judge on 21st June, 2016, in my opinion, does not suffer from any jurisdictional error or any infirmities.

8. In view thereof, the Criminal Application fails and stands rejected. The observations made in this order are *prima facie* and confined to the issue in regard to cancellation of bail.

(N.W. SAMBRE, J.)

amj