

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPLN) NO.53/2016

Umesh s/o Kishorilal Yadav ..vs.. Rahul Surajlal Jaiswal and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. U. P. Dabale, Advocate for applicant.
Mr. J. M. Gandhi, Advocate for non applicant nos. 1 & 2.
Ms T. Udeshi, A.P.P. for non applicant no.3.
Mr. S. G. Joshi, Advocate for intervenor.

CORAM : V.M. DESHPANDE, J.

DATED : JULY 7, 2017

This is an application for cancellation of anticipatory bail granted by learned 1st Ad hoc Additional Sessions Judge, Nagpur on 19.09.2016 in Misc. Criminal Application No.1978/2016 in favour of the non applicant nos.1 and 2 for an offence punishable under Section 486, 471, 420 read with Section 34 of the IPC in Crime No. 242/2016.

I have heard learned counsel for the parties. Though no separate application is filed by the State, the learned A.P.P. is supporting the cause of the present applicant.

It is not in dispute that two factions of same family are fighting with each other in respect of the properties. One faction has already filed the criminal proceedings against another faction to whom the non applicant nos. 1 and 2 belong and they have already filed proceeding under Section 482 of Cr.P.C. before this Court for quashing of those proceedings.

The present applicant is driver of another faction who has filed an application under Section 156 (3) of Cr.P.C. before the learned Magistrate which was allowed and on the direction of the learned Magistrate, an offence was directed to be registered against the non applicant no.2 and the anticipatory bail was granted, which is sought to be revoked by the present applicant.

Ms T. Udeshi, learned A.P.P. for non applicant no.3 states that the non applicant nos. 1 and 2 are not cooperating with the Investigating Officer inasmuch as according to the instructions from the Investigating Officer, the non applicant nos. 1 and 2 are not giving their handwriting specimen.

To a specific question put to the learned counsel for the applicant that for what purpose the custodial presence of the present non applicant nos. 1 and 2 is required by the Investigating Officer, the learned counsel submitted that looking to the nature of the offence, their custodial presence is not required. That fact can be gathered even from the non filing of the application for cancellation of bail by the State before this Court. Apart from that, I have gone through the impugned order. The learned Judge of the Court below has correctly appreciated the given set of facts before it and has exercised the discretion in favour of non applicant nos. 1 and 2.

In that view of the matter, two factions of a family are fighting with each other and hence the

application is required no consideration. The same is therefore disposed of.

The learned counsel for the non applicant nos. 1 and 2 assures this Court that the non applicant nos. 1 and 2 will cooperate with the Investigating Officer and will provide for their handwriting specimen. The statement is accepted.

JUDGE

kahale