

Mrs. Nauseen A. Sattar Ombilkar ...Applicant  
Versus  
Mr. Rizwan Dawood Omblikar &  
Anr. ...Respondents

**CORAM : SMT. ANUJA PRABHUDESSAI, J.**  
**DATED: 28<sup>th</sup> SEPTEMBER, 2018.**

This is an application for cancellation of bail, which was granted by the Additional Sessions Judge, Khed in Bail Application No.26 of 2017.

2. Heard Mr. Majid H. Banderkar, the learned counsel for the Applicant, Mr. Amogh Khodye for the Respondent No.1 and Mr. S.S. Pednekar, APP for the Respondent No.2-State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The Applicant had lodged the FIR dated 16.3.2017 alleging that in the month of June, 2016 the Respondent No.1 had forcible intercourse with her and when she got pregnant, the Respondent No.1

refused to marry her. Pursuant to the said first information report, C.R. No.13 of 2017 was registered against the Respondent No.1 for offence punishable under Sections 376(2)(f), 376(2) (n) and 506 of the Indian Penal Code, 1860.

4. The learned Additional Sessions Judge, Khed while granting bail to the aforesaid Respondent No.1 has taken note of the fact that the Applicant was a major and that she had filed FIR after a period of over 9 months. The learned Sessions Judge has also held that the delay in filing the FIR was not satisfactorily explained. The learned Judge further held that the contentions of the Applicant that the Respondent No.1 had forcible sexual intercourse did not appear to be probable and that the FIR was lodged only because the Respondent No.1 had refused to marry her.

5. It is well settled that the parameters for cancellation of bail are entirely different from that of grant of bail. In *Bhagirathi Jadeja V/s. State of Gujarath, 1984 Cr. LJ 160*, the Apex Court has observed that very cogent and overwhelming circumstances are necessary for an order seeking cancellation of bail. In *Dolat Ram Vs. State of Haryana 1995 SCC (1) 349*, it was observed that one of the grounds for cancellation of bail would be interference or attempt to interfere with

the due course of administration of Justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record, of the possibility of the accused absconding is yet another reason justifying the cancellation of bail.

6. It is thus well settled that bail once granted should not be canceled in a mechanical manner, without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.

7. In the instant case the learned Judge has neither ignored the material on record nor passed the order on the basis of irrelevant facts and material. The learned APP has stated that the trial has commenced. There is nothing on record to indicate that the Applicant has breached any condition or misused the bail. There are no supervening circumstances to justify cancellation of bail. Hence, no case is made out for cancellation of bail.

8. Under the circumstances, the application is dismissed.

**(SMT. ANUJA PRABHUDESSAI, J.)**