

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 132 OF 2015

Ashok Nagari Sahakari Bank Ltd. ..Applicant

v/s.

The State of Maharashtra & Ors. ..Respondents

Mr. Nitin Patil I/b. Subhash Hulyalkar for the Applicant.
Ms. Pallavi Dabholkar, APP for the State.

**CORAM : ANUJA PRABHUDESSAI,J.
DATED : OCTOBER 06, 2018.**

P.C.

1. This is an application for cancellation of bail. The records reveal that the applicant herein had filed a complaint before the Police of Sant Tukaram Nagar Police Station alleging that the respondent no.1 2 and 3 had not repaid the loan amount and had further sold the property which was mortgaged to the bank. The applicant had thereafter filed an application under Section 156(3) before the learned Magistrate. As soon as the respondent nos.2 and 3 learnt about the said complaint and application filed under Section 156(3) of Cr.P.C., they filed an application for anticipatory bail being

ABA/402/2015 before the Sessions Court at Pune. The Sessions Judge issued notice to the applicant and after hearing the applicant and the prosecution granted pre-arrest bail.

2. The applicant herein has sought to cancel the bail on the ground that no FIR was registered as on the date of filing of the application for anticipatory bail. Suffice it to say that registration of FIR is not a sine qua non for seeking pre-arrest bail. The only requirement for invoking jurisdiction under Section 438 Cr.P.C. is reasonable apprehension of arrest. In the instant case, the applicant had lodged a police complaint and had also filed an application under Section 156(3) of Cr.P.C. As such there were reasonable grounds of apprehension of arrest and consequently the respondent nos.2 and 3 were entitled to file application for anticipatory bail.

3. It is well settled that bail once granted can be canceled only on cogent and overwhelming circumstances. As it has been held by the *Apex Court in Dolat Ram vs. State of Haryana (1005) 1SCC 349*, that any 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.

4. In the instant case, there is nothing on record to show that the respondents have misused the liberty. There are no supervening circumstances which justify cancellation of bail. Furthermore, the order passed by the learned Sessions Judge is not perverse or illegal. Considering the above circumstances, in my considered view, the applicant has failed to make out a case for cancellation of bail.

Hence, the application is dismissed.

**Prasanna
Pradeep
Salgaonkar**

Digitally signed by
Prasanna Pradeep
Salgaonkar
Date: 2018.10.09
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(ANUJA PRABHUDESSAI, J.)