

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

CRIMINAL APPLICATION NO. 277 OF 2016

Bajirao Vithal Desai

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. D.W.Bhosale for the Applicant.
Ms. J.S.Lohokare, APP for the State.

**CORAM : ANUJA PRABHUDESSAI,J.
DATED : OCTOBER 10, 2018.**

P.C.

1. This is an application under Section 439 (2) of Cr.P.C. filed by the applicant, seeking cancellation of bail granted to the respondent no.2 by Order dated 1st July, 2015 in Anticipatory Bail Application No. 54 of 2015.

2. Heard Mr. Bhosale, the learned Counsel for the applicant and Ms. Lohokare, the learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

3. The records prima facie reveal that pursuant to the FIR lodged

by the applicant herein, Crime No. 6 of 2015 was registered against the respondent no.2 at Nesari Police Station for offence under Section 406 r/w. 34 of IPC. It was the case of the applicant that the respondent no.2 and others with their common intention had misappropriated an amount of Rs.28 lakhs, as a result of the scam in Drinking Water Scheme at Village Jambhulwadi. The respondent no.2 had filed an application under Section 438 of Cr.P.C. which came to be allowed by Order dated 23rd June , 2015. In the said Order, the learned Addl. Sessions Judge, Gadhinglaj, has recorded finding that the nature of the allegations do not justify custodial interrogation. The learned Judge has also recorded a finding that the respondent no.2 has roots in the society and there is no possibility of him absconding. The learned Addl. District Judge therefore granted pre-arrest bail under Section 438 Cr.P.C.

4. At the outset it may be mentioned that bail once granted cannot be cancelled mechanically as parameters for cancellation of bail are entirely different. In the instant case, the learned Counsel for the applicant has not been able to point out that the order passed by the learned Sessions Judge is perverse and illegal. He has also not been

able to show that there are any supervening circumstances which justify cancellation of bail. The crime was registered in the year 2016. It is stated that the chargesheet is already filed and that the respondent no.2 has already been released on bail. In the light of the above circumstances, I do not find any justifiable reason to cancel the bail. Hence the application has no merits and is accordingly rejected.

**Prasanna
Pradeep
Salgaonkar**

Digitally signed by
Prasanna Pradeep
Salgaonkar
Date: 2018.10.11
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(ANUJA PRABHUDESSAI, J.)