

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 430 OF 2017

IN

ANTICIPATORY BAIL APPLICATION NO.1003 OF 2015
Shahista Qureshi w/o Nasim Qureshi vs. Yusauf Jamir Kazi &
ors.

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.C.K.Talekar for the Applicant.

Mr. Prashant Patil for Respondent No.2.

Mrs. Rutuja Ambekar,APP for the Respondent-State.

CORAM : A.S.GADKARI, J.

DATE : 16th August, 2018

P.C.

1. This is an application for cancellation of pre-arrest bail granted to respondent Nos. 1 and 2 by an Order dated 11.4.2016 in ABA No.1003 of 2015.

2. The record indicates that in pursuance of the Consent Terms dated 5.4.2018 entered into between the applicant and respondent Nos. 1 and 2, the interim relief granted by an Order dated 11.4.2016 was confirmed on the ground that, the respondent Nos. 1 and 2 made a solemn statement before this

Court that, they will make payment of Rs.43.00 lakhs to the applicant on or before 29.3.2017 and the balance amount of Rs.43.00 lakhs will be paid on 29.3.2018. Thus, the total amount of Rs.86.00 lakhs was to be paid to the applicant on or before 29.3.2018. The undertakings mentioned by respondent Nos. 1 and 2 in the said Consent Terms are accepted as undertakings given to this Court. Para No. 3 of the said consent terms makes a categorical reference of the same. As the respondent Nos. 1 and 2 failed to honour their solemn statement made before this Court and did not pay the agreed balance amount of Rs.43.00 lakhs, the present application for cancellation of bail has been filed by the original Complainant.

3. The present matter was adjourned on several occasions at the request of the learned counsel for respondent Nos.1 and 2 who on instructions, from time to time made statement that respondent Nos.1 and 2 are in fact intending to pay and clear the balance amount of Rs.43.00 lakhs to the original Complainant. The record indicates that, even at the personal request of the learned counsel for respondent Nos. 1 and 2 this matter was adjourned on few occasions though this Court had specifically observed that, interim relief will be vacated if the

respondent Nos. 1 and 2 failed to pay the said amount within stipulated period. In the premise, the present application was kept today for hearing.

Today also the learned counsel for respondent Nos. 1 and 2 on instructions is seeking further indulgence of this Court by raising a plea that, respondent Nos. 1 and 2 are intending to dispose of one of their property and would be in a position to pay the balance amount of Rs.43.00 lakhs on or before 23.8.2018.

4. The record indicates that, since 11.4.2016 and even prior thereto the respondent Nos. 1 and 2 by raising such a plea has initially got interim relief from this Court and subsequently got it confirmed by submitting the said Consent Terms. As noted earlier, respondent Nos .1 and 2 have given undertakings to this Court to pay the amount to the applicant on or before the said stipulated date. Thus, it is clear that, respondent Nos. 1 and 2 with a view to procure the interim relief from this Court and subsequently to get it confirmed made a said statement, though they were aware of the fact that they are unable to comply with the same. Even otherwise also, as noted earlier

respondent Nos. 1 and 2 have utterly failed to comply with the undertakings given to this Court despite granting several opportunities.

5. In view thereof, respondent Nos. 1 and 2 do not deserve any sympathy from this Court. The pre-arrest bail granted to respondent Nos. 1 and 2 in ABA NO. 1003 of 2015 by an Order dated 11.4.2016 is hereby cancelled.

6. Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)