

CRIMINAL APPLICATION NO.371 OF 2016

Ambadas Vithal Jadakar ...Applicant
Versus
Laxman Digambar Mangale and Anr. ...Respondents

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Mr. Swaroop Karade I/b. Mr. Surel S. Shah for the Applicant.
Mr. S.H. Yadav, APP for the Respondent -State.
Mr. A.B. Jadhav, API, Indapur police station, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 31st OCTOBER, 2018.

P.C.:-

This is an application under Section 439(2) of the Cr.P.C. filed by the aforesaid Applicant, who was the first informant in C.R. No.7 of 2016 registered at Indapur Police Station. The Applicant has sought cancellation of bail granted to the Respondent Nos.2 by the learned Additional Sessions Judge, Baramati, vide order dated 6.4.2016 passed in Criminal Bail Application No.149 of 2016.

2. Heard Mr. Swaroop Karade, the learned counsel for the Applicant and Mr. S.H. Yadav, the learned APP for the Respondent-State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The Respondent No.1 was married to Rani on 25.8.2010. She committed suicide on 1.1.2016. The Applicant, who was the matrimonial uncle of the deceased has alleged that the Respondent No.1 and his other family members had demanded dowry and that they had subjected Rani to physical and mental cruelty.

4. The Respondent No.1 was arrested and was released on bail by the learned Additional Sessions Judge, Baramati by order dated 6.4.2016. While releasing the Respondent No.1 on bail, the learned Judge had observed that there was matrimonial dispute between the Respondent No.1 and the deceased and that the Respondent No.1 had already issued notice for restitution. The learned Judge also considered the fact that investigation was concluded and that the presence of the Respondent No.1 was no longer required for the purpose of investigation or interrogation.

5. The Applicant has contended that the learned Judge ought not to have granted bail. It is stated that the deceased had committed suicide within 7 years of the marriage and that the learned Judge has failed to consider that there is possibility of the Respondent No.1 influencing and pressurizing the witnesses.

6. 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.

7. 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.

8. In the instant case the records reveal that the deceased was residing at her parental house and that the Respondent No.1 had

issued notice for restitution. The deceased had committed suicide at her parental house. The learned Judge has considered the said fact and further the fact that investigation was already concluded. There is nothing on record to indicate that the Respondent No.1 had misused his liberty. The Bail order is neither perverse nor based on irrelevant material. The Applicant has not been able to show the supervening circumstances which justify cancellation of bail. The learned APP has submitted that the trial has already concluded. Hence, no case is made out for cancellation of bail.

9. Under the circumstances, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)