

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

CRIMINAL APPLICATION NO.440 OF 2016

Sou. Kamal Tanaji Kalbhor ...Applicant
Versus
The State of Maharashtra and Ors. ...Respondents

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Mr. Rupesh Zade for the Applicant.
Mrs. J.S. Lohokare, APP for the Respondent -State.
Mr. Santosh M. Shinde, ASI, Yavat Police Station, Pune, 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 for cancellation of bail granted to the Respondent Nos.2 to 7 by the learned Additional Sessions Judge, Baramati, vide order dated 18.6.2016 passed in Criminal Bail Application No.301 of 2015.

2. Heard Mr. Rupesh Zade, the learned counsel for the Applicant and Mrs. J.S. Lohokare, 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 Applicant herein has lodged the FIR alleging that on 2.6.2016 the Respondent Nos.2 to 7 had come to the house of the first informant alongwith six other persons and damaged the motorcycle, and threatened the first informant and others and taken away valuable things from the their house. The Respondent Nos.2 to 7 had filed application for pre-arrest bail. The learned Additional Sessions Judge, while granting the said application has observed that there is a civil dispute between the parties and that both the parties have filed complaints and counter complaints against each other. The learned Judge has also taken note of the fact that the FIR does not attribute any specific role to any of the Respondent Nos.2 to 7.

4. In the light of above facts the learned Judge held that it was not a fit case for custodial interrogation and hence granted bail. The Applicant has sought cancellation of bail on the ground that the learned Judge has not considered the facts that presence of the Applicant was required for recovery of money.

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 cannot be cancelled 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 Having gone through the records and considering the fact that there is civil dispute between the parties and both the parties have lodged complaints and cross complaints against each other, in my considered view the order is neither perverse nor based on irrelevant material. The investigation is concluded and the charge sheet has been filed. 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.)