

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

CRIMINAL APPLICATION NO. 587 OF 2016

Aadesh Eknath Surve ..Applicant

v/s.

Rakesh Chandrakant Shelke & Ors. ..Respondents

**WITH
CRIMINAL APPLICATION NO. 447 OF 2016**

Aadesh Eknath Surve ..Applicant

v/s.

Sou. Pournima Amar Shelke & Ors. ..Respondents

**WITH
CRIMINAL APPLICATION NO. 448 OF 2016**

Aadesh Eknath Surve ..Applicant

v/s.

Chandrakant J. Shelke & Ors. ..Respondents

Mr. Avinash N. Naikwadi for the Applicant.
Mr. A.D.kamkhedkar, APP for the State.

**CORAM : ANUJA PRABHUDESSAI,J.
DATED : OCTOBER 19, 2018.**

P.C.

1. The respondent no.1 in Criminal Application No. 587 of 2016 and Respondent nos.1 and 2 in Criminal Application Nos. 447 of 2016 and 448 of 2016 had filed applications under Section 438 of Cr.P.C. before the Addl. Sessions Judge, Baramati, Pune apprehending their arrest in Crime No. 313 of 2016 for offences under Section 306, 498A, 323, 504, 506 r/w. 34 of IPC. The learned Addl. Sessions Judge had allowed the said applications by orders dated 18th June, 2016 in Criminal Anticipatory Bail Application Nos. 352 of 2016, 282 of 2016 and 281 of 2016.

2. By this application filed under Section 439(2) of Cr.P.C., the applicant, who was the first informant, has sought cancellation of bail granted vide orders dated 18th June, 2016.

3. Heard Shri Naikwadi, the learned Counsel for the applicant and the learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties.

4. The records prima facie reveal that Respondent no.1-Rakesh Shelke (Criminal Application No. 587 of 2016) had married Rani -the sister of the first informant/ applicant herein on 24th February, 2014. She had committed suicide on 27th May, 2016. The brother of the deceased had lodged a complaint stating that Rakesh Shelke used to consume alcohol and ill-treat the deceased. He has further stated that all other family members of said Rakesh Shelke had demanded Rs.5 lakhs for purchase of a four wheeler and that they used to subject deceased to cruelty since they were unable to satisfy their demands. He therefore claims that applicant Rakesh and his family members had abetted commission of crime.

5. The learned Sessions Judge, whilst granting bail in ABA/281/2016 has considered the fact that the respondent nos.1 and 2 in Criminal application no. 448 of 2016 are above 70 years of age. The learned Judge has also observed that the nature of the allegations do not justify custodial interrogation.

6. The applicant- first informant has sought cancellation of bail mainly on the ground that the learned Judge has not considered the material on record and has recorded erroneous findings. It may be mentioned that parameters of cancellation of bail are totally different from those to be considered whilst granting bail. Bail once granted, cannot be mechanically canceled unless there are supervening circumstances which warrant cancellation of bail, and /or the order is totally perverse and based on irrelevant material.

7. The first information report indicates that the deceased -Rani had committed suicide within two years of marriage. It is true that in terms of Section 113-A, presumption can be drawn. However, the FIR reveals that the allegations of demand of dowry and cruelty are made against each and every member of the family. Furthermore, the allegations are general in nature. The material on record does not indicate that the applicant Rakesh or his family members had provoked, instigated, goaded, enticed or intentionally aided the deceased in committing suicide. Thus, there is no prima facie material to show that the said respondents have abetted commission

of suicide within the meaning of Section 107 of IPC. The records reveal that bail was granted in the year 2016. It is stated that the chargesheet has been filed. There is nothing on record to show that the respondents have violated the conditions of the bail order. There are no supervening circumstances to cancel the bail. The order is no perverse and is not based on irrelevant material.

8. In my considered view, no case is made out for cancellation of bail. Hence the applications are dismissed.

(ANUJA PRABHUDESSAI, J.)