

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

CRIMINAL APPLICATION NO. 453 OF 2016

Kishore Kakumal Keswani

..Applicant

v/s.

The State of Maharashtra & Anr.

..Respondents

Mr. Subhash Jha, a/w. Ms. Sanjana Pardeshi I/b. Law Global
Advocates for the Applicant.

Mr. S.R.Agarkar, APP for the State.

CORAM : ANUJA PRABHUDESSAI,J.

DATED : OCTOBER 10, 2018.

P.C.

1. This is an application under Section 439 (2) Cr.P.C. filed by the aforesaid applicant, seeking cancellation of anticipatory bail granted to the respondent no.2 by the learned Addl. Sessions Judge, Gr. Bombay by Order dated 13th June, 2016 in Anticipatory Bail Application No. 995 of 2016.

2. Heard learned Counsel Shri Jha for the applicant. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties.

3. The records reveal that pursuant to the FIR lodged by the applicant, Crime No. 172 of 2016 was registered against the respondent no.2 and another at Azad Maidan Police Station for offences punishable under Section 420, 465, 467, 468, 471, 474 r/w. 34 of Indian Penal Code.

4. The contention of the applicant was that the respondent no.2 had helped one Anil Jaisinghani to fabricate the medical certificate. The learned Sessions Judge, while granting anticipatory bail to the respondent no.2 has observed that the FIR is based on hearsay evidence. There is no prima facie material to show that the respondent no.2 had committed any such overt act or that the respondent no.2 had assisted Anil Jaisinghani in fabricating the document. The learned Judge therefore held that the respondent no.2 was entitled for protection under Section 438 of Cr.P.C.

5. Learned Counsel Shri Jha for the applicant submits that the main accused Anil Jaisinghani has been absconding and that the respondent no.2 was earlier in constant touch with said Anil Jaisinghani, this itself shows that the respondent no.2 had helped the main accused for fabricating the document.

6. At the outset, it may be mentioned that the bail once granted cannot be canceled mechanically 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. In the instant case, apart from the contention that the respondent no.2 was in constant touch with Anil Jaisinghani, there is no prima facie material to show any elements of criminal conspiracy. Under the circumstances, the Order dated 13th June, 2016 cannot be said to be perverse, illegal and contrary to the settled principles of law. The fact that the main accused is absconding is not a ground for cancellation of bail granted to the co-accused. The applicant has not been able to show any such supervening circumstances which justify cancellation of bail. The application has no merits and is accordingly dismissed.

Prasanna
Pradeep
Salgaonkar

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(ANUJA PRABHUDESSAI, J.)