

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

CRIMINAL APPLICATION NO.519 OF 2016

Sunil Subhash Gadade	...Applicant
Versus	
Amol Bhausahab Badade & Anr.	...Respondents

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Mr. Jitendra Gaikwad for the Applicant.
Mr. S.H. Yadav, APP for the Respondent No.2-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 11th OCTOBER, 2018.

P.C.:-

This is an application under Section 439(2) of the Cr.P.C., filed by the first informant in C.R. No.26 of 2016 seeking cancellation of bail granted to the Respondent No.1 by the learned Additional Sessions Judge, Pune vide order dated 5th July, 2016 in Misc. Criminal Application No.2047 of 2016.

2. Pursuant to the FIR lodged by the Applicant, C.R. No.26 of 2016 was registered against the Respondent No.1 at Shirur Police Station, District-Pune (rural), for offences punishable under Sections 201, 302 r/w. 34 of the Indian Penal Code, 1860. The Respondent No.1 upon being arrested, filed an application under Section 439 of the

Cr.P.C. The said application was allowed and the Respondent No.1 was ordered to be released on bail.

3. Heard Mr. Jitendra Gaikwad, the learned counsel for the Applicant and Mr. S.H. Yadav, the learned APP for the Respondent No.2-State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

4. While granting bail, the learned Judge has considered the fact that there is no direct evidence as against the Applicant and the case is based mainly on circumstantial evidence. The learned Judge has also observed that apart from recovery of sickle and motorcycle as per the disclosure statement made under Section 27 of the Evidence Act, there is no prima facie material as against the Applicant. The learned Judge had also observed that charge sheet has been filed and the presence of the Applicant is not necessary for the purpose of investigation and interrogation. The learned Judge has taken note of the fact that the Applicant is a permanent resident of Pune and there are no chances of his fleeing from justice.

5. The learned counsel for the Applicant has not been able to

satisfy that the order is perverse or is based on irrelevant material. There are no supervening circumstances justifying cancellation of bail. There is nothing on record to show that the Respondent No.1 has misused his liberty while he was on bail. Furthermore, the learned APP has submitted that the trial is almost concluded.

6. Considering all the above facts and circumstances, no case is made out for cancellation of bail. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)