

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 45 OF 2018**

Sandeep Ashok Salve ..Applicant

v/s.

Dhanraj Javanmal Bhurat & Ors. ..Respondents

WITH
CRIMINAL APPLICATION NO. 675 OF 2017

The State of Maharashtra ..Applicant

v/s.

Dhanraj Javanmal Bhurat & Ors. ..Respondents

Mr. Niranjan Mundargi for the Applicant in Cri. Appln 45 of 2018.
Mr. Ajay Patil, APP for the State in Appln. 675 of 2017.
Mr. Uday Warunjikar for the Respondent Nos.3 and 4.

**CORAM : ANUJA PRABHUDESSAI,J.
DATED : OCTOBER 29, 2018.**

P.C.

1. These applications under Section 439(2) Cr.P.C. are filed by the State as well as the first informant for cancellation of pre-arrest bail granted to the respondent nos.1 to 4 in C.R.No. 89 of 2016 by the learned Addl. Sessions Judge, Pune vide Order dated 7th August, 2018 in BA/3110/2016.

2. Heard Shri Niranjana Mundargi, the learned Counsel for the first informant, and the learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

3. The records prima facie reveal that the first applicant had filed a private complaint RCC. No. 469 of 2016 before the JMFC, Vadgaon- Maval, Pune. The applicant had alleged that the respondent no.1 Dhanraj had informed him that the respondent no.3 Nirupama was the owner of Gat No. 272, situated at Varsoli, Taluka Maval, and that she was interested in selling her land. The applicant had claimed that the respondent no.1 Dhanraj had handed over to him original 7 x 12 extract of Gat No.272 and photo-copy of Mutation Entry No. 762. The applicant claims that he had agreed to purchase the land for Rs.1,10,00,000/-. He claims that he had handed over the cheque of Rs.1 lakh to the respondent no.3 Nirupama and cash of Rs.1 lakh to the other respondents as earnest money.

4. The applicant obtained the copies of 7 x 12 extract of Gat No.272 and M.S. No.762 and learnt that respondent no.3 was not the owner of the land and that the copies of the Revenue records and M.S. Entry given to him by the respondent no.1 were forged and fabricated. He claims that the respondent no.3 had not encashed the cheque. However, the other respondents had refused to refund the amount of Rs.1 lakh given to them. The applicant therefore filed a private complaint against the respondents for committing offences of cheating, forgery etc.

5. Pursuant to the order passed under Section 156(3) Cr.P.C., C.R.No.89 of 2016 was registered at Lonawala Police Station for offences under Section 420, 467, 468 and 471 r/w. 34 of IPC. Apprehending their arrest, the respondents filed an application under Section 438 Cr.P.C. The learned Addl. Sessions Judge while granting pre-arrest bail has considered the fact that the allegations made against the respondents were vague. The applicant had not given any particulars of the transactions. The learned Addl. Sessions Judge has also observed that though the applicant had learnt about the forgery in the year 2014, the complaint was filed only in the year

2015. The learned Addl. Sessions Judge recorded that the records prima facie do not show the involvement of the present respondents in alleged offence and that no custodial interrogation was required.

6. The learned Counsel for the applicant contends that the respondent no.1 Dhanraj had handed over copy of the forged and fabricated 7 x 12 extract and that the said offence is of serious nature and hence presence of the respondent no.1 was required for the purpose of custodial interrogation so as to know as to how and from where he secured the forged and fabricated documents.

7. It may be mentioned that, the parameters of cancellation of bail are entirely different. Bail once granted cannot be canceled mechanically unless and until there are supervening circumstances which warrant cancellation of bail, and/or the order is totally illegal, perverse and/or based on irrelevant material. In the instant case, the records reveal that the applicant had sought cancellation of bail on the sole ground that the respondent no.1 Dhanraj had handed over to him forged and fabricated 7 x 12 extract of Gat No.272. Undisputedly, there is no written agreement between the applicant and the respondent nos.1 to 4. The cheque which was allegedly

issued in the name of the respondent no.3 has not been encashed. There is no prima facie material to show that the cash of Rs.1 lakh was paid to Dhanraj or to the other respondents. Apart from the statement of the applicant, there is no other material to show that the respondent no.1 had handed over 7 x 12 extract to the first informant. Under the circumstances, the finding arrived at by the learned Addl. Sessions Judge, cannot be said to be perverse or ex-facie illegal. The respondents are on bail for over a period of one year. They have not misused their liberty, nor interfered with administration of justice during the period they were on bail. There are no supervening circumstances which would justify cancellation of bail. Hence, the applications have no merit and are accordingly dismissed.

(ANUJA PRABHUDESSAI, J.)