

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL APPLICATION (APPLN) NO.10 OF 2017

(Mohd. Akhtar Sheikh Mushtak ..vs.. State of Maharashtra, through PSO, PS Old City Akola and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

None for the applicant,
Shri C.A. Lokhande, Addl.P.P. for non-applicant/State,
Shri Abdul Subhan, Counsel for non-applicants 2 to 6.

CORAM : ROHIT B. DEO, J.

DATED : 19-07-2018

None present for the applicant.

2. This is an application under Section 439(2) of the Criminal Procedure Code seeking cancellation of bail granted by this Court by order dated 23-12-2016. Breach of conditions of bail is the ground on which the bail is sought to be cancelled.

3. This application appears to have been moved on 23-2-2017. It is not the case of the prosecution that post filing of the application there is any allegation of misuse of liberty. In so far as the grounds in the application are concerned, the allegation is that non-applicants 2 to 6 threatened and assaulted witnesses namely Abdul Rizwan, Mohd. Akhtar and Sheikh Umir. Abdul Rizwan lodged complaint against non-applicants 2 and 5 and a non-cognizable offence is registered by the police. Perusal of the affidavit filed on behalf of the State does not reveal that this incident was investigated. In the

result, the allegation against non-applicants 2 and 5 that they threatened the witnesses is in a sense unverified. Similar allegations are made against non-applicants 2, 4, 5 and 6 who allegedly abused, assaulted and threatened Mohd. Akhtar. Again, non-cognizable report is registered on 21-1-2017. Similar is the situation as regards the alleged threats given to witness Sheikh Umir.

4. It is not uncommon that immediately after the accused are released on bail, spate of allegation are made, which more often than not remain unsubstantiated and unverified since they are not investigated by the police. The alleged threats are reportedly issued in January 2017 more than one and half years ago. As observed supra, the allegations are unsubstantiated.

5. Cancellation of bail cannot be equated with rejection of bail and it would be for extremely compelling reasons that this Court would cancel bail. That conditions of bail are breached must be demonstrated by confidence inspiring material. In the fact situation, this Court is not inclined to cancel the bail granted.

6. The application is without substance and is rejected.

JUDGE