

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**APPLICATION FOR CANCELLATION OF BAIL
NO.31 OF 2019**

Jagannath s/o. Rangnath Gitte,
Age: 39 years, Occu:Agri.
R/o. Chandapur, Taluka Parali,
District Beed.

.. APPLICANT

VERSUS

1. The State of Maharashtra,
Through Parali Rural Police Station,
Parali Vaijnath, District Beed.
2. Atul s/o. Vaijnath Gitte,
Age: 21 years, Occu : Education,
R/o. Chandapur, Taluka Parali V.
District Beed.
3. Ravi s/o. Vaijnath Gitte,
Age: 24 years, Occu : Agri.
R/o. Chandapur, Taluka Parali V.
District Beed.

.. RESPONDENTS

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Mr.S.S.Gangakhedkar, Advocate for the
applicant.
Mr.A.P.Basarkar, Additional Public Prosecutor
for the respondent – State.
Mr.S.J.Salunke, Advocate for respondent nos.2
and 3.

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**CORAM: V.M.DESHPANDE, J.
DATE : 16.04.2019**

ORAL JUDGMENT:

1] Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2] Shri S.S.Gangakhedkar, learned counsel is representing the father of the deceased Aniket. The father of the deceased is the applicant before this Court.

3] The deceased—Aniket, aged 9 years, died unnatural death and post mortem report, which is placed on record shows that the cause of death was due to strangulation.

4] The learned Judge of the Court below granted bail in favour of respondent nos. 2 and 3 on 15.02.2019 and the applicant is praying before this Court for cancellation of bail.

5] The respondent nos.2 and 3 were arrested on 26.12.2018. They were in police

custody remand till 31.12.2018, and thereafter they were taken in magisterial custody remand. After they were taken in the magisterial custody remand, the respondent nos.2 and 3 filed an application for regular bail under Section 439 of the Code of Criminal Procedure.

6] During P.C.R., rope, which is used to strangle the deceased, was seized at the behest of respondent no.2 Atul.

7] There is no eye witness account in the prosecution case. The case of the prosecution is based upon the circumstantial evidence. The Court below, while releasing the respondent nos.2 and 3 on bail, has imposed the condition that respondent nos.2 and 3 shall not enter the geographical limits of village Chandapur till filing of charge-sheet. This particular condition was imposed by the Court below, as it could be seen from

the order because the Court below was of the view that the witnesses are from the very same village.

8] Since the case of the prosecution is solely based on circumstances and the respondents were released on regular bail, no investigation is now left pertaining to respondent nos.2 and 3 and stringent condition like imposition of 'no entry to them in the geographical limits of village Chandapur', in my view, the discretion used by the Court below in favour of respondent nos.2 and 3 for releasing them on regular bail, cannot be faulted. Consequently, I see no reason to entertain the present Application, hence, it is rejected. Rule stands discharged.

[V.M.DESHPANDE]
JUDGE