

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

**APPLICATION FOR CANCELLATION OF BAIL
NO.150 OF 2018
IN
CRIMINAL BAIL APPLICATION NO.420 OF 2018**

Bharati @ Kiran Eknath Rathod,
Age: 19 years, Occu. Agri.,
R/o. Paregaon Tanda,
Tq. & Dist. Jalna. **..APPLICANT**

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Police Station, Moujpuri,
Tq. & Dist. Jalna.
2. Panjab s/o. Subhash Pawar,
Age: 24 years, Occu. Private Service,
R/o. Dhandarwadi-Dattapur Tanda,
Tq. Shindkhedaraja, Dist. Buldhana.

..RESPONDENTS

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Mr.A.N.Nagargoje, Advocate for the applicant.
Mr.S.Y.Mahajan, Addl.P.P. for respondent no.1
- State
Mr.S.J.Salunke, Advocate for respondent no.2.

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**CORAM: V.M.DESHPANDE, J.
DATE : 01.04.2019**

ORAL JUDGMENT:

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

2] Heard Shri A.N.Nagargoje, learned counsel for the applicant, Shri S.Y.Mahajan, learned Additional Public Prosecutor for the respondent – State and Shri S.J.Salunke, learned counsel for respondent no.2.

3] By this Application, which is filed under sub-section [2] of Section 439 of the Code of Criminal Procedure, the applicant, who is the victim, wishes to cancel the regular bail granted by this Court [Coram : A.M.Dhavale, J.] on 9th May, 2018, on the ground that respondent no.2 has violated the conditions imposed upon him while releasing him on bail.

4] Crime No.19/2018 was registered with Police Station, Maujpuri, Taluka and District Jalna, for the offences punishable under Sections 366, 376 D, 506 and 34 of the Indian Penal Code, on the basis of the complaint lodged by the victim herself. Respondent no.2 was arrested in connection with the said Crime on 20th March, 2018. This Court on 9th May, 2018, after considering the merits and demerits in respect of the prosecution only for the purpose of exercising the discretion under Section 439 of the Code of Criminal Procedure, found that respondent no.2 is entitled for the same, and accordingly, granted regular bail to him on the following conditions;-

"The applicant shall not enter the village of the prosecutrix and surrounding area of 5 Km. radius and shall not contact prosecutrix or any other witness till the material evidence is recorded."

5] According to the learned counsel for the applicant, this condition is breached by respondent no.2 and for that he invited my attention to the N.C. reports i.e. N.C.No. 183/2018 dated 19.05.2018 and N.C.No. 204/2018 dated 26.05.2018. Both the N.C. reports are filed by the father of the victim to show that respondent no.2 has breached the condition mentioned in the preceding paragraphs.

6] Both these N.C. Reports registered with Maujpuri Police Station, Taluka and District Jalna, are by the father of the prosecutrix / applicant, at the behest of the present applicant. Perusal of N.C. No. 183/2018 shows that the name of respondent no.2 is not mentioned at all, and it is stated that one Sham Rathod and Ajay Pawar have extended threats to Eknath Rathod. Since

the presence of respondent no.2 is not mentioned at all in the said report, it cannot be said that respondent no.2 on 18.05.2018 has committed any breach of the conditions.

7] In so far as N.C. Report No.204/2018 is concerned, no doubt true it mentions the name of respondent no.2 along with one Arjun Rathod and other two persons accompanying with them. The nature of the accusation made in the said report by Eknath Rathod is that on 25.05.2018 at 8 O'clock, respondent no.2, Arjun Rathod and two unknown persons, who were masked, came and started abusing him and demanded Rs.4 & 5 Lakh.

8] The person, who has lodged the N.C. reports, the father of the victim, is resident of Paregaon Tanda, Taluka and District Jalna, the place away from the

Police Station Maujpuri at about 18 Kilometers. The incident in question has occurred on 25.05.2018 at 8 O'clock in the night and the intimation about the said incident was given to the Police Station on 26.05.2018 at 13.31 hours, without offering any explanation in the report. From the nature of the accusation made in the report, it is really unacceptable that a person like respondent no.2 will arrive on the spot disclosing his identity, especially when his companions, who had nothing to do with the incident for which respondent no.2 is released on bail, will mask their faces to hide their identity.

9] In that view of the matter and looking to the fact that the steps are taken for cancellation of bail granted in favour of respondent no.2 immediately after he was released on bail by this Court, this is not a

fit case wherein the Court should cancel the bail especially when the bail was granted by this Court after considering the age of the prosecutrix and other material placed before it. Hence, the Application is rejected. Rule stands discharged.

[V.M.DESHPANDE]
JUDGE

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