

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

CRIMINAL APPLICATION (APPLN) NO.39/2019

Uttam Ganpat Bawaru .vs. State of Maharashtra through PSO P.S. Ghatanji,
Dist. Yavatmal and Others.

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

Court's or Judge's orders.

Mr. B. M. Dafle, Advocate for applicant.
Mr. N. R. Rode, A.P.P. for non applicant no.1-State.
Mr. T. Patil, Advocate for non applicant nos.2 and 3.

CORAM: V. M. DESHPANDE, J.
DATED : OCTOBER 3, 2019

Heard Mr.Dafle, learned counsel for applicant
and Mr. Rode, learned A.P.P. for non applicant no.1-State
and Mr. Patil, learned counsel for non applicant nos.2 and 3.

This is an application under Section 439 (2) of
the Code of Criminal Procedure for cancellation of regular
bail granted in favour of non applicant nos.2 and 3 by
learned Additional Sessions Judge-2, Yavatmal on
14.06.2019, by which the learned Judge of the Court below
exercised its discretion under Section 439 of the Code of
Criminal Procedure and released non applicant nos. 2 and 3
from jail in respect of the offence punishable under Section
452, 323, 504, 506, 306 read with Section 34 of the Indian
Penal Code in Crime No.281/2019, on a condition that the
non applicants shall not enter into the vicinity where the
complainant resides.

Wife of present applicant has committed suicide on 14.05.2019. She died due to burn injuries. Non applicant nos. 2 and 3 are real nephews of the present applicant.

The Court below found that there was dispute of land in between present applicant and father of non applicant nos.2 and 3. On 08.05.2019, father of non applicant nos. 2 and 3, arranged one religious programme and he went to offer food to his mother, who used to reside with applicant. That time, the applicant was not present in the house. However, the deceased took the said food and threw it on the road. Therefore, a quarrel took place amongst non applicants and deceased, in which ultimately she committed suicide.

Perusal of impugned order would show that Court below has given thoughtful consideration while releasing the non applicants on bail. As on today, it is not the complaint of either prosecution or the applicant that the non applicants have committed breach of conditions by entering into the village where the complainant resides.

Perusal of the case, at least prima facie, shows that there are no ingredients of Section f107 of the Indian Penal Code. Hence, the application is rejected.

JUDGE