

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

APPLICATION FOR CANCELLATION OF BAIL No.144 OF 2020

DNYANESHWAR RATAN PATIL

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Mr. Anil Sapkal, Advocate h/f Mr. K.N. Shaikh, Advocate for applicant

Mr. A.M. Phule, APP for respondent No.1/State

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 02nd DECEMBER, 2020

ORDER :

1 Present application has been filed by the original informant under Section 439(2) of the Code of Criminal Procedure, 1973 for cancellation of bail, so also, he wants to invoke the inherent powers of this Court under Section 482 of Cr.P.C. to set aside the order of granting bail to the respondent Nos.2 to 4 in Criminal Bail Application No.603/2020 on 26.10.2020 by learned Additional Sessions Judge, Bhusawal, Dist. Jalgaon. The said application was filed under Section 438 of Cr.P.C. as the present respondent Nos.2 to 4 were apprehending their arrest in connection with the said offence.

2 Heard learned Advocate Mr. Anil Sapkal holding for learned Advocate Mr. K.N. Shaikh for the applicant and learned APP Mr. A.M. Phule for respondent No.1. After considering the contents of the application and First Information Report the learned Additional Sessions Judge, Bhusawal has passed the order. It is not even necessary to issue notice to the respondent Nos.2 to 4.

3 Learned Advocate appearing for the applicant submitted that the learned Additional Sessions Judge while granting the anticipatory bail did not consider the facts of the case, gravity of the offence and the manner in which it was considered. In fact, the contents of the FIR would show that the accused persons had left no other way to the deceased but to commit suicide. They had abetted the said commission of suicide by the deceased. Further, the relatives of respondent Nos.2 to 4 and the respondents themselves are pressurizing the applicant not to go ahead with the matter, and therefore, the bail application granted in favour of the respondent Nos.2 to 4 deserves to be cancelled.

4 Present informant had filed FIR on 29.08.2020 contending that dispute had taken place at about 4.00 p.m. on 23.08.2020. The accused persons stay opposite to the house of the informant and the drainage pipeline from the WC of the accused goes from the front side of the house of the

informant. It used to give bad smell, and therefore, the informant and his wife used to say that since it is giving stress smell it is troublesome for them, however, accused used to pick up quarrel with them. Informant used to pacify his wife not to pay any attention to the abuses given by the accused. On the day of incident, as it was the day of water, the wife of the informant was fetching the water. There was then dispute between present respondent No.2 and the wife of informant. Respondent No.2 abused deceased Jyotibai-wife of the informant. She has also tried to assault Jyotibai with the help of her chappal. The said dispute was witnessed by the adjoining persons and when informant was having a word with respondent Nos.2 to 4, Jyoti came out from her house and told that due to the dispute by the accused persons she has consumed poisonous substance. She then fell down on the ground. It was confirmed by the informant that she has consumed pesticide called Monosil and then he shifted Jyoti to Rural Hospital. She was then referred to Jalgaon. However, she expired on 28.08.2020. First Information Report has been lodged on 29.08.2020 for the offence punishable under Section 306, 504 read with Section 34 of the Indian Penal Code.

5 When the applicants approached the Additional Sessions Judge for anticipatory bail, the points, those were considered by him, are that the quarrel which is stated in the FIR appears to be on trifle issue of drainage

water and material on record is not sufficient to show that the accused persons had intended to instigate the deceased to commit suicide.

6 Taking into consideration the contents of the FIR, the points or grounds for granting anticipatory bail are perfectly correct. In addition to that there was nothing to be seized from the accused persons for which custodial interrogation would be necessary. Whether picking up quarrel or assault on one point can amount to instigation to drive a person to commit suicide is then required to be considered at the time of final hearing. Further, the FIR does not give any specific active role to present respondent Nos.3 and 4. Therefore, the order passed by learned Additional Sessions Judge was within four corners of law. The liberty, so granted, cannot be curtailed on some trifle ground or merely because the applicant has desire to see the accused persons behind bars. No case is made out to exercise the powers of this Court under Section 439(2) of Cr.P.C. nor even for exercise of the inherent powers of this Court under Section 482 of Cr.P.C.. Hence, the application stands rejected.

(Smt. Vibha Kankanwadi, J.)

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