

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

APPLICATION FOR CANCELLATION OF BAIL NO. 128 OF 2021
IN
BAIL APPLICATION NO.327 OF 2021

XYZ, Through Natural guardian ... **Applicant**
Angad s/o Ramchandra Chavan
Age 45 years, Occu: Labour work
R/o Nathnagar, Jiwanpur Tanda,
Tq. Majalgaon, Dist. Beed.

VERSUS

1. The State of Maharashtra, ... **Respondents**
Through Police Inspector,
Police Station, Sirsala Tq. Majalgaon
District Beed.
2. Atul 2/o Bhimrao Rathod
Age 25 years, Occu: Driver,
R/o Nathnagar, Jiwanpur Tanda,
Tq. Majalgaon, Dist. Beed.

Ms. Shubhangi D. More, Advocate for the applicant,
Mr. A. S.Shinde, A.P.P. for the State.
Mr. S. J. Salunke, Advocate for respondent No.2.

CORAM : PRAKASH D. NAIK, J.
DATE : 22nd November, 2021

ORDER:

1. This is an application for cancellation of bail granted to respondent no.2 by this Court vide order dated 8th April, 2021. Applicant is the first informant. First Information Report (FIR) was lodged by her vide crime No. 8/2021 with Sirsala Police Station, Taluka Majalgaon, District Beed for the offences under section 376(1) (2) (n), 417, 506 of the Indian Penal Code.

2. Respondent No.2 accused was arrested. He applied for bail under section 439 of the Criminal Procedure Code before this Court which application was allowed on certain terms and conditions.

3. The FIR was registered on 16.01.2021. The case of the complainant is that she was acquainted with respondent No.2 in 2018. He used to visit her house whenever other persons were not in house. They used to have conversation on phone. He promised her that he would perform marriage with her. He tried to have intimacy. He threatened her that if she do not have physical relationship, he would make their photographs viral. He forcefully induced her to have physical relationship in filed in 2018. From 2018 to 2020 accused established physical relationship with complainant under threats. He kept on promising marriage. Thereafter he refused to perform marriage.

4. Learned counsel for the applicant submitted that while granting bail, condition was imposed upon respondent No.2 that he shall not visit Nathnagar, Jiwanpur, Tq. Majalgaon, Dist. Beed till conclusion of the trial and he should reside elsewhere and before submission of bail papers, he should give complete address of his proposed residence to the Investigating Officer and the trial Court. The accused has committed breach of the said condition. On 15th June, 2021, the accused had threatened the complainant stating that he would see how she would perform marriage and he would spoil her life. NCR was

registered against the accused for the offence under section 504 IPC on 15th June, 2021. Copy of the NCR has been annexed to this application. It is submitted that detail grievance of the applicant was not reflected in the NCR and hence, she has forwarded a written complaint to the police authorities on 23rd June, 2021 alleging threats issued by the accused and that there was no investigation in respect to her NC complaint. Grievance was also made with regard to the manner in which investigation is being conducted by the police. It is submitted that the accused is indulging in threats to the complainant and others. WhatsApp status of the respondent-accused indicate that messages reflected were of threatening nature. Copies of screen shots of the said WhatsApp status has been annexed to this application. The respondent-accused had performed marriage with another lady after subjecting the applicant/complainant to physical relationship under the false pretext of marriage.

5. Per contra, learned counsel for respondent No.2 submitted that there is no breach of conditions imposed by this Court while granting bail to respondent No.2 accused. Enquiry in respect of NCR lodged by the applicant was made. There is no truth in the allegations. Respondent-accused never committed breach of the order by entering into restricted area. It is submitted that WhatsApp status report relied upon by the applicant are not posted by respondent-accused. Apart from that, the applicant had filed affidavit before the Sessions Court

opposing the application preferred by the respondent-accused in which screen shorts of WhatsApp status produced in this application were relied by the applicant/complainant. Bail was granted by this Court thereafter. Hence the question of threatening the applicant after the bail was granted by this Court by posting intimidating WhatsApp status does not arise. While granting bail, this Court has considered the factual aspects of the matter and the nature of allegations and bail was granted on certain conditions. The respondent No.2 has filed affidavit in reply opposing this application.

6. I have perused the order dated 8th April, 2021 passed by this Court granting bail to the respondent-accused. It is pertinent to note that the respondent-accused was arrested and he was in custody. While granting bail, it was observed that the victim was aged about 21 years at the time of lodging the complaint and even in the year 2018, she was major. This Court has considered the factual aspects of this matter and granted bail to the respondent accused.

7. Primarily, cancellation of bail was sought on the ground that there was breach of the condition imposed by this Court while granting bail to the respondent accused. The said fact has been denied by the respondent no.2 accused. Nothing is placed on record to indicate that the allegations were investigated and found to be true. WhatsApp status relied by the applicant is apparently prior to granting of bail to

respondent No.2 by this Court. It also appears that the applicant is also having grievance about the manner in which the investigation is being conducted by the police. It is relevant to note that investigation has been completed and the charge sheet is filed. This is not the forum to deal with the issue with regard to the grievance of the complainant qua the investigation. Respondent No.2 filed affidavit in reply opposing this application.

8. In light of aforesaid factual aspects, no case is made out for interfering in the order passed by this Court granting bail to respondent No. 2.

ORDER

Application for Cancellation of Bail No.128/2021 stands rejected and disposed of.

(PRAKASH D. NAIK, J.)

JPC