

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO.162 OF 2019

Dhondopant s/o Wamanrao Kulkarni

...Applicant

Versus

(1) The State of Maharashtra

(2) Satish s/o Bhaskarrao Deshpande

(3) Meena Satish Deshpande

(4) Sanjay Manikrao Deshpande

(5) Manikrao Bhaskarrao Deshpande

...Respondents

...

Advocates for the Applicant : Mr. S. S. Deshmukh and
Mr. N. D. Kendre

APP for the Respondent – State : Mr. V. S. Badakh
Advocate for Respondent Nos. 2 to 5 : Mr. S. C. Swami

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CORAM : PRAKASH D. NAIK, J.

DATE : 06th OCTOBER, 2021

PER COURT :-

1. This application is preferred by the original complainant under section 439(2) of Cr.P.C. challenging the impugned order dated 04.10.2019 passed by learned Additional Sessions Judge – 5, Latur granting bail to the respondent accused.

2. The respondent accused were arrested in C.R. No. 276/2019 for offences under Sections 326, 143, 147, 148, 323,

504, 506 of the Indian Penal Code on 16.09.2019. The accused were arrested on 18.09.2019. They preferred an application for regular bail before the Court of Sessions which has been allowed by order dated 04.10.2019.

3. The respondents have filed affidavit-in-reply opposing this application.

4. Learned counsel for the applicant submitted that the offence is of serious nature. The learned Sessions Judge while allowing the application for bail has overlooked the nature of injuries sustained by the injured. The order granting bail mentioned that the injured had sustained simple injuries. However, the injury certificate annexed to this application indicate that the injured had sustained about four grievous injuries and four simple injuries. The applicant / complainant have also relied upon the photographs of the injured which reflects the nature of the injuries suffered by the victim. The seriousness of the offence was not considered and bail was granted to respondent.

5. Learned APP submitted that the impugned order granting bail was passed by the learned Sessions Judge on 04.10.2019. The injury certificate referred by learned counsel for the applicant was issued on 23.10.2019. He also submitted that

the charge-sheet has been filed against the arrested accused.

6. Learned counsel for the respondent submitted that the order granting bail was not merely based on nature of injuries. The learned Sessions Judge has also taken into consideration the fact that the arrested accused / respondent were in custody for substantial period of time. No case is made out for cancelling bail granted to the respondent. Investigation is completed and the charge-sheet is filed. There are no criminal antecedents against the respondent accused.

7. Having heard both the sides, I have also perused documents on record. It is pertinent to note that the respondent accused were arrested on 18.09.2019. They were in custody till they were granted bail on 04.10.2019. The learned Judge has taken into consideration the fact that accused were in custody for sufficient time. It is true that the learned Sessions Judge while granting bail has observed that the injuries are simple nature and the certificate which was issued after the bail was granted to the respondent, makes reference of four grievous injuries. The respondent accused were in custody from 18.09.2019. At the time of bail they were in judicial custody. Investigation is completed and the charge-sheet is filed. There are no grounds for cancellation of

bail.

ORDER

Application for Cancellation of Bail No.162/2019 stands rejected.

**(PRAKASH D. NAIK)
JUDGE**

shp/-