

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 241 OF 2021

Akash Sanjay Vasudeo. ... Applicant

V/s.

State of Maharashtra. ... Respondents.

Mr. Ganesh Gole i/b. Mr. Ritesh Ratnam, advocate for applicant.

Ms. P.P. Shinde, APP for State.

CORAM : SMT. SADHANA S. JADHAV

DATE : APRIL 26, 2021.

(Through Video Conferencing)

PC.

1 Heard the learned Counsel for the applicant and the
learned APP for State.

2 The applicant was released on bail on 17/8/2020 in Crime
No. 625 of 2019 registered on 10/12/2019 at Shivaji Nagar Police
Station for offence punishable under section 302, 143, 147, 148 and
149 of the Indian Penal Code. On 22/12/2020 prosecution has filed
an application under section 151(3) of the Code of Criminal
Procedure, 1973 seeking cancellation of bail on the ground that he had

put up his WhatsApp status as follows :

“One year is completed for the murder and that the same may repeat after one year.”

The said application was allowed by the Judicial Magistrate First Class, Ichalkaranji on the same day and the accused was taken into custody and remanded in custody till 4/1/2021. On the same ground, the second application was filed by the prosecution on 4/1/2021 and he was directed to be remanded to judicial custody till 16/1/2021. On 5/1/2021, an application was filed by prosecution under section 446A of the Code of Criminal Procedure, 1973 seeking cancellation of bail. The said application is also allowed vide order dated 2/2/2021 and the accused is directed to be taken into judicial custody.

3 Learned Counsel for the applicant vehemently submits that in fact, the earlier date of the first incident is 10/12/2019 and immediately in 2020 on the basis of the WhatsApp status, he was taken into custody under section 151(3) of the Code of Criminal Procedure, 1973 and remanded in custody for almost 24 days. On the same ground, second application is filed under section 446(A) of the Code of Criminal Procedure, 1973 and it is alleged that he had kept his

WhatsApp status in such a manner that it amounts to threatening the witnesses.

4 The same ground cannot be taken for cancellation of bail, especially when he had undergone imprisonment for more than 24 days for the same offence. In view of this, the order dated 2/2/2021 passed by learned Additional Sessions Judge, Ichalkaranji, Kolhapur in Sessions Case No. 14 of 2020 deserves to be set aside.

5 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The order dated 2/2/2021 passed by learned Additional Sessions Judge, Ichalkaranji, Kolhapur in Sessions Case No. 14 of 2020 is set aside.
- (iii) The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)