

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

CRIMINAL APPLICATION NO. 2 OF 2017

Prabhakar Mahadu Gaikwad ..Applicant

v/s.

The State of Maharashtra & Anr. ..Respondent/s

Mr. Amar Nizam i/b. Mohd. Umar Kazi for the Applicant .
Mr. S.V.Gavand, APP for the Respondent-State.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 7th September, 2021.**

P.C.

1. This is an Application under Section 439(2) of Cr.P.C. filed by the first informant for cancellation of bail granted to the Respondent No.2 vide order dated 26.07.2016 in Bail Application No.883 of 2016.
2. Pursuant to the FIR lodged by the Applicant herein, Crime Mo. I-218 of 2016 came to be registered with Kolsewadi Police Station for offences punishable under Section 307, 120(B) r/w. 34 of Indian Penal Code.
3. It is the case of the prosecution that the Respondent No.2

and some other boys had caused death of the son of the first informant. Initially crime was registered under Section 307 of IPC. It is stated that the case was committed on 8.12.2016. Son of the Applicant expired after the committal order and subsequently offence under Section 302 of IPC came to be added.

4. The learned Addl. Sessions Judge, Kalyan, has observed in the bail order that no avert act has been attributed to the Respondent No.2 . The Applicant has sought cancellation of bail mainly on the ground that subsequent to the order of bail, injured Navin expired and that Section 302 of IPC has been added.

5. Heard learned Counsel for the Applicant and the learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties.

6. The First Information Report does not name Respondent No.2. The statements of other two witnesses do not prima facie indicate that the Respondent No.2 was involved in the said incident. In view of this fact situation, the learned Addl. Sessions Judge, Kalyan had granted bail. The order cannot be said to be perverse and does not suffer from infirmity. Otherwise also no

case is made out for cancellation of bail. Application has no merits and is accordingly dismissed.

PRASANNA P
SALGAONKAR
Digitally
signed by
PRASANNA P
SALGAONKAR
Date:
2021.09.08
17:42:27
+0530

(ANUJA PRABHUDESSAI, J.)