

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

**CRIMINAL APPLICATION NO. 195 OF 2017**

Kalpana Anil Jadhav ..... Applicant  
v/s.  
Ashok Namdeo Kshirsagar and ors. .... Respondents

Mr. Sandip Mallick i/b. Mr. Harshad Palwe for the Applicant.  
Ms. P.N. Dabholkar, APP for the State.  
Mr. Nitin Sejpai for Respondent Nos.1 to 4.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.**

**DATED : 14<sup>th</sup> SEPTEMBER, 2021.**

**P. C. :-**

1. This is an Application under Section 439(2) of Cr.P.C. for cancellation of bail by order dated 14/03/2017 passed by the Additional Sessions Judge-4, Nashik in Criminal Bail Application Nos.288/2017 and 289/2017. By the said order, the learned Additional Sessions Judge, Nashik had granted pre-arrest Bail to the Respondent Nos.1 to 4 who were apprehending their arrest in C.R.No.I-65/2017 registered with Adgaon Police Station for offences punishable under Sections 306, 498-A and 406 r/w. Section 34 of the Indian Penal Code.

2. The offence against the Respondent Nos.1 to 4 was registered on

28/02/2017 pursuant to the first information report lodged by the Applicant, the mother of the deceased Ashwini. The marriage of Ashwini was solemnized with Manoj Ashok Kshirsagar, the son of Respondent Nos.1 and 2 on 25/03/2016. She committed suicide on 27/02/2017 at her maternal home. The mother of the deceased alleged that her daughter had committed suicide because of the cruelty meted out to her by her husband and his family members i.e., Respondent Nos.1 to 4. The Respondent Nos.1 to 4 had filed an Application for pre arrest bail apprehending their arrest in the said crime. By order dated 14/03/2017, the learned Sessions Judge rejected the Application filed by the husband – Manoj. Considering the nature of accusations made against these Applicants who are the family members of the husband, the learned Judge allowed the Application and ordered to release these Respondents on bail. The Applicant who is the mother of the victim and the first informant, has sought cancellation of bail mainly on the ground that the order is perverse and suffers from infirmity.

3. Learned counsel for the Applicant states that he is unable to advance any submissions for want of instructions. He states that any order deemed fit may be passed. Ms. Dabholkar, learned APP and

learned counsel for Respondent Nos.2 to 4 states that charge sheet has already been filed. It is stated that discharge application filed by these Respondents has been dismissed by the Trial Court and the revision is pending before this Court. Mr. Sejpal, learned counsel for Respondent Nos.2 to 4 states that the order dated 14/03/2017 does not suffer from infirmity and hence, there is no ground for cancellation of bail.

4. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

5. It is well settled that parameters for grant of bail are entirely different from cancellation of bail. In ***Myakala Dharmarajam and ors. v/s. The State of Telangana and anr. (2020) 2 SCC 743***, the Apex Court has observed thus :-

*“ 6. The factors to be considered while granting bail have been held by this Court to be the gravity of the crime, the character of the evidence, position and status of the accused with reference to the victim and witnesses, the likelihood of the accused fleeing from justice and repeating the offence, the possibility of his tampering with the evidence and witnesses, and obstructing the course of justice etc. Each criminal case presents its own peculiar factual scenario and, therefore, certain grounds peculiar to a particular case may have to be taken into account by the Court. The court has to only opine as to whether there is prima facie case against the accused. For the*

*purpose of bail, the Court must not undertake meticulous examination of the evidence collected by the police and comment on the same.*

*7. In Raghbir Singh v. State of Bihar this Court held that bail can be cancelled where (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation, (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation, (v) there is likelihood of his fleeing to another country, (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency, (vii) attempts to place himself beyond the reach of his surety, etc. The above grounds are illustrative and not exhaustive. It must also be remembered that rejection of bail stands on one footing but cancellation of bail is a harsh order because it interferes with the liberty of the individual and hence it must not be lightly resorted to.*

*8. It is trite law that cancellation of bail can be done in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant material indicating prima facie involvement of the accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in canceling the bail. ”*

6. In the instant case, the material on record indicates that the

daughter of the first informant was married to the son of the Respondent Nos.1 and 2 on 25/03/2016. The FIR reveals that since 07/01/2017, she had left her matrimonial home and since 07/01/2017, she was staying with her parents at her maternal home. She committed suicide at her maternal home on 27/02/2017. The first informant has alleged that her daughter had left the matrimonial home because of the demand of the dowry and the cruelty meted out to her by her husband and his family members. It is stated that these Respondents had told her to return to the matrimonial home only after meeting their demands. The allegations against these Respondents are general and omnibus. Moreover, there is no prima facie material on record to prove abetment within the meaning of Section 107 of the Indian Penal Code.

7. Considering the nature of accusations levelled against these Respondents, the learned Judge has ordered to release these Respondents on bail. The said order is neither perverse nor suffers from infirmity. The Respondents are on bail since the year 2017. They have not misused the liberty. Hence, no case is made out for cancellation of bail. Under the circumstances, the Application is dismissed.

PREETI  
H JAYANI

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(SMT. ANUJA PRABHUDESSAI, J.)