

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPLICATION NO. 451 OF 2017**

The State of Maharashtra

..Applicant

v/s.

Sadik Karjekar & Anr.

..Respondents

Mr.P.H.Gaikwad,APP for the Applicant.

Mr. Sahil Mahajan for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 11th OCTOBER, 2021.**

P.C.

1. This is an application under Section 439 (2) of Cr. P.C. filed by the State for cancellation of regular bail granted to the Respondents by order dated 15.06.2018 passed by the learned Addl. Sessions Judge, Raigad-Alibag, in Criminal Misc. Application No. 393 of 2017 and 394 of 2017.

2. Heard Shri Gaikwad, learned APP for the State and Shri Mahajan learned Counsel for the Respondents. Perused the records.

3. The records prima facie indicate that pursuant to the FIR dated 21.4.2017, lodged by one Navid Nashir Dhanse, Crime No.92 of 2017 was registered against the Respondents at Karjat Police Station, for offences under Section 307, 324, 323, 334 r/w. 34 of the Indian Penal Code. The Complainant had alleged that on 20.04.2017 at

about 9.30 p.m. he along with one Bilal and Shabbir were proceeding to Karjat on bullet motor-cycle, He has stated that when he had reached village Palasdari, one motor-cycle came from behind. The rider of the motor-cycle had tied handkerchief round his face. He has identified the pillion rider as Mubin Karjekar, the Respondent No.2 herein. The Complainant has stated that Respondent Mubin had abused Bilal and assaulted him with wooden danda. He states that he lost control of the motorcycle and as a result, he, Bilal and Shabbir fell down and sustained injuries.

4. The FIR prima facie indicates that the Applicant had inflicted a blow of wooden danda, whereas in the supplementary statement recorded on 23.04.2017, the Complainant has given a different version. He claims that the pillion rider Mubin had assaulted him with an iron rod. He has further stated that after falling from the motor-cycle, Mubin and the rider of the motor-cycle assaulted them with wooden dandas and iron rods. Prima facie, there is inconsistency in the allegations made in the FIR and the supplementary statement recorded on 23.04.2017.

5. The medical certificate indicates that Bilal had sustained grievous injuries. However, the question whether these injuries were caused by Bilal or were caused by fall from the motorcycle will need

to be decided on merits. The learned Judge has also noted the fact that the relationship between Respondent Mubin and one of the injured is strained as there was love affair between the sister of the injured and Mubin.

6. In view of the above facts and circumstances the order is not perverse, or illegal. The Respondent, who is on bail since 2018 has not misused his liberty. Hence no case is made out for cancellation of bail. Hence the application is dismissed.

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(ANUJA PRABHUDESSAI, J.)