

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

**CRIMINAL APPLICATION NO.630 OF 2017
WITH
CRIMINAL APPLICATION NO.678 OF 2017**

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Premnath Atmaram Patil

...Applicant

Versus

The State of Maharashtra and Ors.

...Respondents

....

None for the Applicant in Appln/630/2017

Mr. Rajesh More for the Applicant in Appln//678/2017

Mr. P.H. Gaikwad, APP for Respondent No.1-State.

Ms Saili Dhuru i/b. Mr. Kuldeep Patil for Respondent Nos.2 to 4.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 25th OCTOBER, 2021.

P.C.:-

CRIMINAL APPLICATION NO.630 OF 2017:

This is an application for cancellation of bail granted to the Respondents. The Applicant was not present on the last date of hearing. Hence, the matter was adjourned and listed under the caption of 'hearing/dismissal', despite which none present for the Applicant. It appears that the Applicant is not interested in pursuing the application. Hence, the application is dismissed for non prosecution.

CRIMINAL APPLICATION NO.678 OF 2017:-

2. This is an application under Section 439 (2) of the Code of Criminal Procedure, 1973 for cancellation of bail granted to Respondent No.1 vide order dated 07/11/2017 passed by the learned District Judge-3 and Additional Sessions Judge, Raigad-Alibag in Criminal M.A. No.792 of 2017.

3. Mr. Rajesh More, learned counsel for the Applicant submits that Respondent No.1 has criminal antecedents and that the Applicant had also brought this fact to the notice of the Court that Respondent No.1 had issued threats to him, despite which the learned Judge has granted pre-arrest bail. He states that the order is perverse and is liable to be cancelled.

4. Ms Saili Dhuru, learned counsel for Respondent No.1 states that learned Judge has recorded that said cases have already been disposed of and hence, bail cannot be rejected on the ground of criminal antecedents. She states that no case is made out for cancellation of bail.

5. Perused the records and considered the submissions advanced by learned counsel for the Applicant, learned counsel for Respondent No.1 and learned APP for Respondent No.2-State.

6. Respondent No.1 was married to the daughter of the Applicant herein. It was an arranged marriage. The daughter of the Applicant committed suicide within four years of the marriage. The Applicant lodged a complaint against Respondent No.1 and his family members alleging abetment of suicide. Pursuant to the said FIR crime No.132 of 2017 was registered against Respondent No.1 and others at Kamothe police station for offences punishable under Sections 306, 323, 504, 506 r/w 34 of the IPC. The Respondent No.1 was arrested on 25/09/2017. He was remanded to the police custody till 29/09/2017 and subsequently remanded to judicial custody. He applied for bail vide Criminal Misc. Application No.792 of 2017. Said application was opposed by the Applicant herein, interalia on the ground that Respondent No.1 has criminal antecedents and that he had threatened the Applicant during the pendency of the bail application.

7. Learned Judge has observed that the crimes registered against Respondent No.1 were of the year 2008. Said offences were registered against Respondent No.1 even before his marriage with the daughter of the Applicant. Some of these cases were also disposed of and hence, the learned Judge observed that bail cannot be declined on the basis of stale cases. While granting bail, learned Judge has

observed that there is no prima facie material to show abetment under Section 107 of the IPC. The aforesaid findings cannot be said to be perverse.

8. The records indicate that the Applicant had filed NC complaint against some unknown persons for assaulting him with kicks and blows and had threatened him not to attend hearing of the bail application. It is not in dispute that the said complaint was registered as NC and the applicant was advised to file a private complaint. Applicant had not filed any such complaint. Suffice it to say that bail cannot be cancelled on such vague allegation as possibility of lodging such complaints to create evidence against bail or to nullify bail order cannot be ruled out.

9. Under the circumstances, no case is made out for cancellation of bail. Respondent No.1 is on bail since 2017. Charge sheet has been filed. There is nothing on record to indicate that he has misused the liberty. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)