

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Criminal Application (APPLN) No. 19/2021

Sundarsingh s/o Devsingh Rathod
..VS..
State of Maharashtra and anr.

WITH

Criminal Application (APPLN) No. 16/2021

Sundarsingh s/o Devsingh Rathod
..VS..
State of Maharashtra and ors.

Office Notes, Office Memoranda of
 Coram, appearances, Court's Orders
 or directions and Registrar's order

Court's or Judge's Order

APPLN No. 19/2021

Shri S.R. Kadam, Advocate for the applicant
 Shri A.R. Chutke, APP for non-applicant no. 1/State
 Shri A.J. Shinde, Advocate for non-applicant no. 2

APPLN No. 16/2021

Shri S.R. Kadam, Advocate for the applicant
 Shri A.R. Chutke, APP for non-applicant no. 1/State
 Shri A.J. Shinde, Advocate for non-applicant nos. 2 and 3

CORAM : MANISH PITALE, J.

DATED : 24/08/2021

These applications are filed by the original informant under Section 439(2) of the Criminal Procedure Code seeking cancellation of bail of contesting non-applicants.

2. The applicant (original informant), in both the applications, is father of the deceased, who is alleged to have committed suicide on 06.12.2020. The non-

applicant no. 2 in Criminal Application No. 19/2021 is husband, while non-applicant nos. 2 and 3 in Criminal Application No. 16/2021 are father-in-law and mother-in-law of the deceased.

3. The FIR in the present case was registered on 07.12.2020. The non-applicants had filed applications for grant of anticipatory bail and by orders dated 15.12.2020 and 24.12.2020, the said applications were allowed and certain conditions were imposed on the non-applicants.

4. The learned Counsel appearing for the applicant in both these applications submits that the Sessions Court proceeded on an erroneous basis by observing that there was delay in registration of FIR and that it appeared to be an after thought. It is further submitted that the applications for anticipatory bail were entertained and allowed within a few days of registration of the FIR, thereby demonstrating the erroneous approach adopted by the Sessions Court, considering the serious nature of the offence alleged against the accused.

5. The learned APP for the State submits that the applicant in the present applications was justified in contending that there was no delay in registration of the FIR, since the FIR was registered on the very next day of the incident, as the informant himself had to be admitted to hospital because he had fallen unconscious upon his own daughter committing suicide.

6. It was brought to the notice of this Court that charge-sheet was already filed in the present case, but the material on record indicates that the suicide was committed after about 10 years of marriage and the statements and other material on record would have to be taken into account by this Court while considering the prayer for cancellation of bail.

7. The learned Counsel appearing for the contesting non-applicants submitted that now charge-sheet is already filed. There was no complaint regarding the non-applicants having violated any of the conditions imposed by the Sessions Court. Hence, the present applications deserve to be dismissed.

8. Perusal of the material shows that the contention raised by the learned Counsel on behalf of the applicant regarding alleged delay in registration of the FIR appears to be correct. The record shows that the incident took place on 06.12.2020 in the afternoon, while FIR was registered on 07.12.2020 at about 09.20 p.m.. The material shows that the informant, being father of the deceased, was himself required to be hospitalized and, therefore, the said material appears to sufficiently explain the reason, why the FIR came to be registered on the next day. In that context, the Sessions Court appears to have erred in observing that there was delay in registration of the FIR and that the grievance raised by the applicant (original informant) appeared to be an after thought. But,

the said aspect in itself cannot be said to be sufficient to cancel the bail granted to the non-applicants herein. There is no dispute about the fact that investigation is now complete and charge-sheet is already filed. There is also nothing to show that the non-applicants in any manner have violated any of the specific conditions imposed upon them while granting bail. The material available alongwith charge-sheet itself indicates that the allegations pertaining to offence under Section 498A of the Indian Penal Code would have to be decided during the course of the trial and that since, the bail is already granted to the non-applicants, it cannot be said that the material now available on record sufficiently demonstrates any glaring error on the part of the Sessions Court in granting bail to the non-applicants.

9. In view of the above, the applications are found to be without any merit and accordingly, they are **dismissed**.

JUDGE