

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

929 APPLICATION FOR CANCELLATION OF BAIL NO.8 OF 2021

BHUSHAN HIMMAT MALI

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. P.S. Paranjape, Advocate for the applicant

Mr. A.M. Phule, APP for the respondent No.1

Mr. R.D. Chinchpurkar, Advocate h/f Mr. K.C. Sant, Advocate for respondent
Nos.2 and 3

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 15th MARCH, 2022

ORDER :

1 Present applicant is the original informant, who challenges the order dated 27.10.2020 passed by the learned Additional Sessions Judge, Dhule in regular Bail Application No.880/2020 granting bail under Section 439 of the Code of Criminal Procedure to respondent Nos.2 and 3.

2 Heard learned Advocate Mr. P.S. Paranjape for the applicant, learned APP Mr. A.M. Phule for the respondent No.1 and learned Advocate Mr. R.D. Chinchpurkar holding for learned Advocate Mr. K.C. Sant for

respondent Nos.2 and 3.

3 When the matter was on board on 09.02.2022 the learned Advocate for the respondent Nos.2 and 3 as well as learned APP submitted that 'A' summary has been reported to the learned Magistrate. Thereafter learned Advocate for the applicant sought accommodation to take instructions. On 01.03.2022 learned APP submitted that application for acceptance of 'A' summary is pending before learned Magistrate and the next date was given on 09.03.2022. But till today no order appears to have been passed by the learned Magistrate.

4 On the basis of the First Information Report lodged by the present applicant offence vide Crime No.201/2020 came to be registered for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. It can be seen that the learned Additional Sessions Judge, Dhule on 27.10.2020 while allowing the application under Section 439 of the Code of Criminal Procedure gave a reasoned order. It has been observed that initially the Accidental Death was reported and in the inquest panchnama it was stated that he had committed suicide by hanging in house. Even the Police Station Officer has forwarded requisition for Postmortem to the Doctor at Cottage Hospital, Shirpur in the same way. But later on it is stated in the

First Information Report that the deceased could not be found at 3.30 a.m. and when initial search was made he could not be found. Again the search was taken at 5.00 a.m., at that time, he was found in almost dead condition in front of the house of another brother of the informant Ramdas Pawar. It is then suspected by informant that keeping the grudge of the quarrel, that had taken place on 19.09.2020, the respondent Nos.2 and 3 had murdered his brother and had thrown the body near the house of Ramdas Pawar. Taking into consideration those inconsistencies the bail was granted and now the things appear that 'A' summary has been forwarded. If the learned Magistrate does not accept the summary, further investigation would be done. Under such circumstance, there is definitely the hanging sword on the respondent Nos.2 and 3. When a reasoned order is passed and there are such contradictory circumstances, there is no necessity to cancel it. Application stands rejected.

(Smt. Vibha Kankanwadi, J.)