

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO.8 OF 2020

Priyanka w/o Satish Jadhav ... Applicant

Versus

1. The State of Maharashtra
2. Shankarrao s/o Amru Jadhav
3. Parvatibai w/o Shankarrao Jadhav
4. Saraswatibai w/o Vikas Jadhav
5. Suman w/o Pandurang Rathod
6. Pandurang Lobhaji Rathod ... Respondents

...

Mr. G. R. Syed, Advocate for applicant.

Mr. B. V. Virdhe, APP for respondent No.1 – State.

Mr. S. S. Bora, Advocate for respondent Nos.2 to 6.

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 24.02.2022

ORDER :-

. The applicant is the original informant. Respondent Nos.2 and 3 are the father-in-law and mother-in-law. Respondent No.4 is their relative. Respondent Nos.5 and 6 are also relative of respondent Nos.2 and 3. Learned Additional Sessions Judge-1, Nanded vide MCA No.1041/2019 had granted anticipatory bail to present respondent Nos.2 to 6. The offence was registered on the basis of FIR lodged by the present applicant vide Crime No.499 of 2019 registered with Shivajinagar Police Station, Dist. Nanded for the offence punishable

under Sections 420, 467, 468 read with Section 34 of Indian Penal Code. The applicant has filed this application under Section 439(2) of the Code of Criminal Procedure for cancellation of the said bail order.

2. Heard learned Advocate Mr. G. R. Syed for the applicant, learned APP Mr. B. V. Virdhe for the respondent No.1 – State and learned Advocate Mr. S. S. Bora for respondent Nos.2 to 6.

3. It has been vehemently submitted on behalf of the applicant – informant that the learned Additional Sessions Judge failed to consider the role played by respondent Nos.2 to 6. They had actively participated in the commission of crime. Accused No.1 i.e. the son of respondent Nos.2 to 6 got married to the present applicant on 26.05.2016. She was treated properly for some days and, thereafter, she was harassed. She was abused on trifling matters and also assaulted. Therefore, she had lodged complaint with Grievance Redressal Forum about one and half year prior to the FIR. It was given in writing before the said authority that she would be treated properly. Thereafter, the husband started remaining outside the house and used to come rarely. When she used to ask about the same, he was harassing her. She received phone call from her father on 05.12.2019 as to whether she has given divorce to the husband or has given any signature on any document. She could not understand the same and then the father told that their relatives were

telling that there is a legal divorce of the applicant and now her husband is planning for the second marriage. She then went to Family Court, Nanded and secured the documents. It showed that in the said Petition bearing No.93 of 2018 the signature of her father and mobile number is false. Thereafter, she approached this Court and stay to the decree was taken. She has, therefore, made complaint that accused persons have given false signature and fabricated the documents showing that she was properly served and, therefore, the FIR was lodged. The learned Advocate for the applicant has pointed out the documents, especially the notice and the address given in the same as false and it is then stated that the said decree has been stayed by this Court. Statement of the bailiff has been pointed out stating that he had gone to the address given in the petition which was shown to be the address of the present applicant. It was Amrut Nivas, near Swami Samarth Mandir, Maganpura, Dist. Nanded. According to the applicant, her father is residing elsewhere. All these facts were not considered by the learned Additional Sessions Judge and, therefore, the bail granted to respondent Nos.2 to 6 deserves to be cancelled.

4. Learned Advocate for respondent Nos.2 to 6 supported the reasons given by the learned Additional Sessions Judge and submitted that they were not responsible for effecting the service of notice. The

statement of the bailiff says that the person, who was present there had made statement. Custodial interrogation was not required and anticipatory bail prayed by the husband of the applicant was rejected. He would have been the person, who could have been benefited by such activities and, therefore, there is no necessity to cancel the bail granted to respondent Nos.2 to 6.

5. It is to be noted that in Petition 'A' No.93 of 2018 before the Family Court, Nanded, the husband of the applicant was the petitioner and he had given his address as Amrutnaik Tanda, Masalga, Pt. Devthana, Tq. Bhokar, Dist. Nanded and the address of the present applicant was given as aforesaid. According to the applicant, said address is her matrimonial home. Her FIR gives an impression that she was residing in the matrimonial home when the bailiff had gone. The question then arises why she was not present in the house when the bailiff had come. She will have to explain where she had gone. Statement of the bailiff, who served, has been recorded. In fact, in the petition, it was not stated in whose house she was residing, but then the bailiff says that when he made inquiry about the relationship of that person, who appears to be the old person, that person told him that he is the father of the applicant. Therefore, the bailiff appeared to be genuinely believing the said statement and gave the summons to him. Now, it is stated that the

said signature on the summons is fake. There is no concrete evidence that present respondent Nos.2 to 6 had taken active part. The bail application of the husband of the applicant has been rejected and it appears that he was arrested. The investigation was done and the charge-sheet has been filed. Under such circumstance, when the Investigating Officer never came before any Court that the custody of respondent Nos.2 to 6 is required for the purpose of investigation, the applicant cannot say that in absence of their physical custody, the investigation has been hampered. No case is made out to cancel the bail that has been granted to respondent Nos.2 to 6. The learned Additional Sessions Judge has used proper discretion. Application, therefore, stands rejected.

[SMT. VIBHA KANKANWADI, J.]

scm