

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

APPLICATION FOR CANCELLATION OF BAIL NO.55 OF 2020

Manik S/o Rakhmaji Chaudhari

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
- 2) Balbhim S/o Thakurao Deokate,
- 3) Yashoda W/o Balbhim Deokate

...RESPONDENTS

...
Mr.Mukund D. Gitte Advocate for Applicant.
Mr.A.M. Phule, A.P.P. for Respondent No.1 - State.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 3rd MARCH, 2022

ORDER :

1. Present Application has been filed under Section 439(2) of the Code of Criminal Procedure for cancellation of bail granted by the learned Additional Sessions Judge, Gangakhed, District-Parbhani in Criminal M.A. (Bail) No.28 of 2020 on 17th February 2020 in favour of respondent Nos.2 and 3.

2. Though this Court on 16th March 2020 had issued notice to respondent Nos.2 and 3 and it is awaited, yet, taking into consideration the contents of the Application, the applicant was directed to make submissions as to whether the matter is worth waiting for respondent Nos.2 and 3.

3. Heard learned Advocate Mr. Gitte for the applicant and learned APP Mr. Phule for respondent No.1 – State.

4. Applicant is the informant who had lodged the report on 4th February 2020 vide Crime No.31 of 2020 with Sonpeth Police Station, District-Parbhani for the offence punishable under Sections 306, 498-A read with Section 34 of the Indian Penal Code. Respondent Nos.2 and 3 are the parents-in-law of the deceased. Informant is the father of the deceased. His daughter Bhagyashri got married to son of present respondent Nos.2 and 3, namely, Harishchandra about four years prior to the First Informant Report. According to the informant, Bhagyashri was treated properly by the husband and in-laws for about six months. Thereafter, in order to purchase motorcycle they started saying that she should bring amount of Rs.35,000/- from the informant. They used to abuse her and it is stated that they used

to give mental as well as physical harassment to her. The said fact was told by Bhagyashri to the parents after about 2 to 3 months. Due to poor financial condition, the informant was unable to fulfill the demand. It is then stated that Bhagyashri was driven out of the house for not fulfilling the demand. Thereafter, after the Sankrant of 2019, informant and other respectable persons with Bhagyashri, went to her matrimonial home, advise was given and inability to fulfill the demand was stated and then Bhagyashri stayed there. It is then stated that since Harishchandra was the wrestler, after marriage he had not given all the physical satisfaction also to Bhagyashri. After Diwali, the accused persons started saying that since Bhagyashri's brother has expired and there is no heir left for the parents, the informant should give one Acre land out of his four Acres land to Bhagyashri and then it is stated that they started harassing her and due to the said harassment, Bhagyashri consumed poison around 6.00 to 6.30 a.m. on 3rd February 2020.

5. Present respondent Nos.2 and 3 had filed bail application under Section 439 of the Code of Criminal Procedure after they were arrested and the said application came to be allowed by

learned Additional Sessions Judge, Gangakhed, District-Parbhani on 17th February 2020.

6. Applicant is contending that the said order ought not to have been passed and the application filed by present respondent Nos.2 and 3 ought not to have been allowed. It is stated that respondent Nos.2 and 3 may pressurize the informant and his family members as they are politically motivated persons. The investigation is incomplete and there is eminent danger to the life of the applicant.

7. Perusal of the Application for Cancellation of Bail would definitely give an impression that just for the sake of opposition or with ultimate intention that respondent Nos.2 and 3 should not get bail, certain reasons have been mentioned. Respondent Nos.2 and 3 were arrested and they have undergone the necessary police custody and they were taken to Magisterial custody. It appears that at no point of time the Investigating Officer had challenged the order of sending respondent Nos.2 and 3 in Magisterial custody. Reasoned order has been passed by the learned Additional Sessions Judge. This Court would rather say that in the First Information Report the details of alleged

harassment have not been given. Mere use of the word 'harassment' will not amount to cruelty as contemplated under Section 498-A of the Indian Penal Code and therefore, when the custodial interrogation was not further required, the learned Additional Sessions Judge was justified in allowing the said bail application. There is no reason for this Court to come to a conclusion that it is an illegal order. Proper conditions have also been imposed while releasing respondent Nos.2 and 3 on bail. The Application, therefore, stands rejected.

[SMT. VIBHA KANKANWADI , J.]