

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

**935 APPLICATION FOR CANCELLATION OF BAIL NO.97 OF 2021
WITH ACB/98/2021**

SHUBHANGI SANDU JAGDALE

VERSUS

DILIP GANGADHAR JAGDALE AND OTHERS

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Mr. J.N. Jagdale, Advocate h/f Mr. M.V. Salunke, Advocate for the applicant

Mr. M.S. Karad, Advocate for the respondent Nos.1 to 3 in ACB/97/2021

Mr. K.F. Shingare, Advocate for respondent Nos.1 to 3 in ACB/98/2021

Mr. V.M. Kagne, APP for the respondent No.4

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 01st FEBRUARY, 2022.

ORDER :

1 Both the applications have been filed under Section 439(2) of the Code of Criminal Procedure, 1973 for cancellation of bail granted to the respective respondents. The respondent Nos.1 to 3 in Application for Cancellation of Bail No.97 of 2021 were granted bail under Section 438 of the Code of Criminal Procedure by learned Additional Sessions Judge, Aurangabad on 06.04.2021 in Bail Application No.618/2021, whereas the respondent Nos.1 to 3 in Application for Cancellation of Bail No.98 of 2021

were granted anticipatory bail by the same Court on the same day by the same Court in Bail Application No.630/2021. All the respondents stand prosecuted for committing offence punishable under Section 306 read with Section 34 of the Indian Penal Code. The present applicant is the informant, who had lodged report vide Crime No.73/2021. Deceased was her husband. It has been alleged in the First Information Report that the accused persons are her relatives from her husband side and they have dispute in respect of the agricultural land. Her husband had filed suit for partition in the Civil Court at Aurangabad. There is also dispute in respect of the residential house as well as agricultural land with well situated at village Sawangi. Her husband went out of the house by picking his mobile around 9.30 a.m. on 23.03.2021. Her brother-in-law informed around 1.30 p.m. that her husband has committed suicide by hanging on a hill near village Sarola. The incident was reported to the police and after the Postmortem was performed the body was handed over to the relatives and the funeral was conducted. Thereafter, when son as well as brother-in-laws of the informant checked the mobile of deceased, they found photograph of a chit, in which it was disclosed that these six accused persons had caused mental harassment to him and, therefore, they should be arrested and put in jail. Informant therefore lodged the First Information Report on 31.03.2021.

2 Heard learned Advocate Mr. J.N. Jagdale holding for learned Advocate Mr. M.V. Salunke for the applicant, learned Advocate Mr. M.S. Karad for respondent Nos.1 to 3 in Application for Cancellation of Bail No.97 of 2021, learned Advocate Mr K.F. Shingare for respondent Nos.1 to 3 in Application for Cancellation of Bail No.98 of 2021 and learned APP Mr. V.M. Kagne for the respondent No.4/State.

3 It has been vehemently submitted on behalf of the informant that the learned Additional Sessions Judge has not considered the seriousness of the offence, so also, the papers were not considered. The reasons those have been given are cryptic. So also, he pointed out that non cognizable complaint has been lodged on 24.04.2021 under Section 504, 506 of the Indian Penal Code with the same Police Station by one Bapurao Vishwanath Jagdale, who was threatened by the accused persons for taking back the case.

4 Per contra, the learned Advocates for respondent Nos.1 to 3 in both cases submitted that respondent Nos.1 to 3 in both cases have abided by the terms of the bail. They had reported to the police. A false non cognizable complaint has been lodged. Investigation was complete and the charge sheet has been filed. No case is made out for cancellation of bail.

5 At the outset, it is to be noted that the suicide is stated to have

committed on 23.03.2021 and the First Information Report has been lodged on 31.03.2021. There is apparent delay in lodging the First Information Report. Secondly, the Spot Panchnama that was executed on 23.03.2021 would show that only the nylon rope was seized from the spot, depicting thereby that the mobile of the deceased was not found on the spot. However, there appears to be another panchnama on 31.03.2021 regarding seizure of the chit as well as mobile, in which there was a photograph of the alleged chit. The informant as well as statements of her son and brother-in-laws are not clear, as to from where they got the mobile phone of the deceased and when they had checked the same. Further, when the spot panchnama specifically states that there was no suspicious object found which includes the chit also, then, when the deceased would have taken the photograph of that chit, is a question. There is no supplementary statement of the informant as to from where and when she had discovered the impugned chit. The said chit along with other admitted handwriting is stated to have been sent for the opinion of the handwriting expert, but that report has not been annexed with the charge sheet. Even if we consider that the chit is left by deceased; yet, no specific acts have been attributed to the accused persons, which amounted to harassment to the deceased. Which acts amount to abetment are also not mentioned in detail. Under such circumstance, with this kind of evidence, no error has been committed by the learned Additional

Sessions Judge in granting anticipatory bail to the respondent Nos.1 to 3 in both matters. No case is made out to curtail the liberty of the respondent Nos.1 to 3 in both the cases. Applications are meritless and, therefore, they are rejected.

(Smt. Vibha Kankanwadi, J.)

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