

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.921 OF 2022
WITH APPLN/2418/2022 IN ABA/921/2022

SIDHESHWAR DILIP JOGDAND AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Dhananjay A. Mane, Mr. N.G.Talekar
APP for Respondent/State : Mr. S. B. Narawade
Advocate for complainant : Mr. Vitthal Ravindra Gore
...

CORAM : S. G. MEHARE, J.

DATE : 03-08-2022

PER COURT :-

1. Heard the learned counsel for the applicants and the learned APP for the respondent/State.
2. The applicants were initially released in the crime by the learned Judicial Magistrate First Class, however, subsequently, the offence under Section 307 of the Indian Penal Code was added and the request of Investigating Officer to cancel the bail was accepted by the learned Magistrate. Thereafter, the applicant approached the Sessions Court under Section 438 of the Code of Criminal Procedure. The question that arises for consideration is, whether the anticipatory bail can be granted to the accused, who were already arrested and released in the crime after the cancellation of bail.

3. The learned counsel for the applicants has fairly conceded that the order canceling the previous bail is challenged before the learned Sessions Court under Section 397 of the Cr.P.C. The said order has been challenged before passing of the order by this Court.

4. The learned APP has opposed the application contending that two remedies cannot be availed at a time. Once the accused is arrested in crime and their bail is cancelled, the proper remedy is available and that remedy has already been exhausted by the applicants. Therefore, this application cannot be entertained.

5. The learned counsel for the applicant, on instructions, seeks leave to withdraw the application. Leave granted. The application stands dismissed as withdrawn.

6. Criminal Application No. 2418 of 2022 stands disposed of.

7. Needless to state that the Sessions Court should not influence by the observations made in the order passed by this Court.

(S. G. MEHARE)
JUDGE