

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

APPLICATION FOR CANCELLATION OF BAIL NO.107 OF 2019

**RAJESH GULABRAO PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Mr. Subodh P. Shah, Advocate for Applicant
Mr. N. T. Bhagat, APP for Respondent – State
Mr. M. G. Kochar, Advocate for Respondent Nos. 2 & 3
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 16th DECEMBER, 2022

PER COURT :

1. By this application filed under Section 439(2) of the Code of Criminal Procedure, applicant/original informant seeks cancellation of anticipatory bail granted to respondent Nos. 2 and 3, by the Sessions Court, Amalner.
2. Applicant lodged FIR which is registered at Crime No.101/2019, with Amalner Police Station, for offences punishable under Sections 394, 347, 324, 504, 506 read with 34 of the Indian Penal Code. It is alleged in the FIR that applicant/informant had taken generator from respondent No.2 on rent and handed it over to some other person. Dispute arose between applicant and respondent No.2 about payment of rent and return of generator. On 13/05/2019 applicant went to respondent No.2 to settle the

dispute. During talks respondent No.2 insisted for entire price of generator. It is alleged that with the help of three other accused, he snatched amount of Rs.35,000/- from informant. Accused persons wrongfully restrained informant and beat him by using machine belt of generator. Informant was forced to issue cheque in the name of respondent No.2. Thereafter his photographs were taken and he was taken to Notary wherein he was forced to execute a document. He was also taken to some other persons to procure repayment. He was released on 14/05/2019. Informant was hospitalized at Hire Medical College and Hospital, where his statement was recorded by police authorities and on the basis of same present crime was registered on 19/05/2019.

3. Heard learned advocate for applicant, learned advocate for respondent Nos. 2 and 3 and learned Additional Public Prosecutor for respondents – State. Perused the investigation papers.

4. *Prima facie* allegations made in the FIR appear to be of civil nature. Report of investigating officer indicates that applicant is not cooperating in investigation. Though he was repeatedly called for investigation, he was not attending concerned police station. Admittedly, cheque allegedly issued by applicant/informant to the accused person is dishonoured. *Prima facie* there appears substance

in the contention of respondents accused that with a view to give counter blast to the cheque bounce case initiated by them under Section 138 of the Negotiable Instruments Act, present FIR is lodged. There are no criminal antecedents of accused respondent Nos. 2 and 3.

5. In the light of the aforesaid facts, no substance is found in the application filed by applicant. Application is, therefore, dismissed.

6. Needless to state that trial Court shall not be influenced by the observations made in this order.

(NITIN B. SURYAWANSHI, J.)