

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

919 APPLICATION FOR CANCELLATION OF BAIL NO.186 OF 2021

MANJUSHRI W/O MAHESH KARWA

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. R.R. Chandak, Advocate for the applicant

Mr. V.M. Kagne, APP for respondent Nos.1 and 2

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 15th FEBRUARY, 2022

ORDER :

1 Present application has been filed by the original informant under Section 439(2) of the Code of Criminal Procedure, 1973, for cancellation of bail granted to respondent No.3 by learned Learned Additional Sessions Judge, Newasa, Dist. Ahmednagar on 05.08.2021 in Bail Petition No.230/2021 under Section 438 of the Code of Criminal Procedure.

2 Heard learned Advocate Mr. R.R. Chandak for the applicant and learned APP Mr. V.M. Kagne for respondent Nos.1 and 2. No necessity to issue notice to respondent No.3. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 Perusal of the First Information Report would show that the informant had alleged in the First Information Report that she runs a proprietary firm under the name and style “Ganpati Enterprises” at Phaltan, Dist. Satara. Her firm accepts the sugar tenders from Sugar Factory and then sells the sugar as per the order. She herself as well as her husband Mahesh Karawa carry out the affairs of the firm. She has then stated that the respondent No.3 had placed orders and accordingly the sugar was supplied. In fact, the respondent No.3 also appears to be the middle man and he was placing orders for somebody else. According to the informant, the respondent No.3 has cheated her to the tune of Rs.8,95,779/- as he had not delivered 270 quintals of sugar, though it was supplied by the informant as per respondent No.3’s orders.

4 Before the learned Additional Sessions Judge the documents were produced and the respondent No.3 has in fact, mainly relied on a notarized document, entered into between him and the husband of the informant on 01.07.2021. It was a notarized document stating that amount of Rs.47,78,921/- was outstanding and it was then paid, from time to time, between 01.06.2021 to 15.06.2021. As on 01.07.2021 there were no dues towards Ganpati Enterprises. The said document was bearing signature of paternal uncle and cousin brother of husband of the informant. The

respondent No.3 had also given the details, as to how the payments were made. It is also then stated that another notarized document was also entered on 01.07.2021 between paternal uncle of the husband of the informant and his cousin brother in respect of the payments made to them, which were to the tune of Rs.15,77,046/-, Rs.17,69,565/- and Rs.16,31,018/- to Madanlal Karwa and Rs.14,66,740/- in favour of Vijay Karwa. It was also stated that the vehicle, of which number was given in the First Information Report, traced to the record of sugar invoice of the factory would show that it was addressed to Ganpati Enterprises itself.

5 Taking into consideration the above details and the documents the learned Additional Sessions Judge considered those deed of acknowledgments of consideration amount and it was also observed that the transaction appears to be civil in nature, however, impugned crime has been raised for the purpose of recovery of consideration amount. Therefore, the discretion was utilized in favour of the respondent No.3 and the anticipatory bail was granted. There is no necessity to interfere with the said order, where the discretion has been judiciously utilized. Application stands rejected.

(Smt. Vibha Kankanwadi, J.)