

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO.191 OF 2021

BHATU S/O KALU BEDSE
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Mr. S. A. Deshpande, Advocate for the applicant.
Mrs. Vaishali Patil Jadhav, APP for respondent No.1 – State.
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 19.01.2022

ORDER :-

. Present application has been filed under Section 439(2) of the Code of Criminal Procedure by the original informant.

2. The applicant – informant filed Crime No.581 of 2021 on 17.09.2021 with Dhule Taluka Police Station, Dist. Dhule against present respondent No.2 for the offence punishable under Section 306 of Indian Penal Code.

3. Learned Advocate appearing for the applicant, after taking this Court to the contents of the FIR, submits that after respondent No.2 had filed application under Section 439 of the Code of Criminal Procedure, learned Additional Sessions Judge had not considered the facts of the

case and the fact that the investigation is still pending. He was carried away by the submissions made on behalf of the accused. In fact, as per the FIR it was disclosed that on the day of incident the accused was along with two other unknown persons. The daughter of the applicant was dragged by the applicant by holding his hand and it was told by the applicant that he loves the girl and he is going to take her away. After manhandling, the accused left the girl. But the girl felt defamed and went missing. Her dead body was found after two days in the Well situated in the agricultural land of the informant. Taking into consideration the seriousness of the offence, the learned Additional Sessions Judge ought not to have granted bail to respondent No.2.

4. Taking into consideration the contentions raised, it is not even necessary that respondent No.2 should be called upon to answer the application. It is to be noted from the impugned order that as regards the alleged love affair is concerned, it was the part of the argument that was submitted on behalf of the accused, but it is not reflected in the finding or reasons part expressed by the learned Additional Sessions Judge. What has been taken note of that after the necessary police custody, the accused is in magisterial custody. It was noted that nothing is required to be seized from the accused and it was then observed that the investigation is almost complete to the extent of the applicant. Even

the statements of the witnesses, which were recorded and the spot panchanama that was executed by the investigating officer, was perused and then a conclusion was arrived at that the further detention of the applicant is unwarranted. At the time of allowing the application, care has been taken by the learned Additional Sessions Judge to impose necessary conditions and the applicant therein i.e. present respondent No.2 has been debarred from entering the village till filing of charge-sheet. When the impugned order reflects proper application of mind by the learned Additional Sessions Judge, there is no question of interference by this Court under Section 439(2) of the Code of Criminal Procedure. The application stands rejected at the threshold.

[SMT. VIBHA KANKANWADI, J.]

scm