

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO.207 OF 2021

VANDANA W/O SUNIL GAIKWAD

VERSUS

STATE THROUGH POLICE OFFICER CITY POLICE STATION,
SHRIRAMPUR TAL.SHRIRAMPUR DIST.AHMEDNAGAR
AND OTHERS

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Advocate for Applicant : Mr. Shaikh shabbir K. and Shaikh Afreen R.
APP for Respondent No.1-State : Mr. A. M. Phule.
Advocate for Respondents No.2 and 3 : Mr. V. B. Jagtap

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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 08-03-2022

ORDER :

1. Present applicant is the original informant who wants to challenge the order of grant of anticipatory bail to the respondents No.2 and 3 in Cri.M.A. No.213 of 2021, dated 29-10-2021, passed by the learned Additional Sessions Judge, Shrirampur, District Ahmednagar, on 29-10-2021.
2. Heard learned Advocate Mr. Shaikh Shabbir K. for applicant, learned APP Mr. A. M. Phule for respondent No.1-State and learned Advocate Mr. V. B. Jagtap for respondents No.2 and 3.

3. The informant has lodged FIR vide Crime No.622 of 2021 with Shrirampur City Police Station, District Ahmednagar, for the offence punishable under Section 306, 323, 504, 506 r.w.34 of IPC against respondents No.2 and 3. Respondents No.2 and 3 had filed said application Cri.Bail Appln.No.213 of 2021 under Section 438 of Cr.P.C. and it was granted by the learned Additional Sessions Judge, Shrirampur on 29-10-2021. It has been submitted on behalf of the applicant that deceased was the husband of informant. Deceased Sunil had gone to the house of respondent No.2 for digging pits for growing trees. He had employed labours. After coming back to home, Sunil had informed informant that when his labours were digging, they found a copper vessel buried in the ground, and when it was taken out, it was found that it is filled with silver and gold coins. Some of the coins had fallen out of the vessel. After the fact was informed to respondent No.2, the vessel was shown to him. Respondent No.2 told Sunil that he should not disclose anybody that such vessel has been discovered. He promised that he would give Sunil amount of Rs.11 lakh and then respondent No.2 had given him amount of Rs.1,28,000/- in cash. As per the promise, Sunil went time and again to applicant No.2 to get the remaining amount of

Rs.10 lakh, but he was assaulted by respondents No.2 and 3. They had threatened Sunil that if he discloses anything, then he will not be allowed to work and he and his family would be made to starve. Since that date Sunil was not going out of the house and was not meeting any person. However, the fact about discovery of the vessel and the coins went to Tahsildar and Tahsildar had seized the vessel, but it was containing only silver coins. Respondents No.2 and 3 had stolen the gold coins. Whenever Sunil used to meet respondent No.2, respondent No.2 used to say that because of Sunil they were required to part with the ancestral wealth. He gave threat to kill to Sunil, and therefore, it had created mental harassment to Sunil. He was under fear and ultimately he committed suicide by hanging on 12-09-2021.

4. The learned Advocate for the applicant submitted that the learned Additional Sessions Judge has not considered the seriousness of the offence and he has made unnecessary observations that there was long gap between the date of which the vessel was discovered and the date on which suicide was committed, and therefore, there is no link between the two incidences by which we can say that there was abetment to commit suicide by the

accused persons to deceased. It is very much apparent that because of the greedy attitude of respondents No.2 and 3, they had not disclosed the fact of discovery of vessel to Government though in such circumstances it would be boundant duty of the citizen to inform about the same to the Government. Rather the respondents No.2 and 3 were harassing the deceased as they were required to part with the major portion of the coins. All these things ought to have been considered and the fact that respondents No.2 and 3 are having muscle power as well as finance, and therefore, possibility of tampering with the evidence of the prosecution cannot be ruled out. The bail granted to respondents No.2 and 3 deserves to be cancelled.

5. Learned Advocate appearing for respondents No.2 and 3 supported the reasons given by learned Additional Sessions Judge, Shrirampur, while allowing the application and submitted that the present application for cancellation of bail has been filed with malafide intention which deserves to be dismissed.

6. Since the contents of the FIR have already been reproduced, they are not considered in detail once again. Even if for the sake of arguments it is accepted that deceased was the person who got the

knowledge about the discovery of those gold and silver coins, it was also his duty to inform the said fact to the Government authorities or police. As per the contents of FIR itself it can be seen that Sunil accepted amount of Rs.1,28,000/- allegedly given by respondent No.2 to him which was according to the informant herself was for keeping quiet and not to disclose the fact of discovery of the vessel. That means, Sunil was also part of that conspiracy who had no intention to inform about the discovery to the Government authorities. Now thereafter if respondents No.2 and 3 had not fulfilled their promises and had not given any further amount, that does not mean that the acts of deceased were wiped out. The FIR is rather vague as to which act was done, at what time and what was the exact sequence. If there was danger to the life of the deceased Sunil, then he was not prevented by anybody to approach to the police authorities. When either or both of respondents No.2 and 3 had lastly met deceased, is not clear from the FIR nor it is reflected in the petition. Unless there would have been verbal communication about threat or harassment, there could not have been mental tension for deceased Sunil. A well reasoned order has been passed by the learned Additional Sessions Judge and he has taken into consideration the leading authorities to be considered while passing

an order for an application under Section 438 of Cr.P.C., and also the ingredients of Section 306 of IPC. Cancellation of bail is a serious affair and it cannot be done so lightly, and therefore, no case is made out to cancel the bail or set aside the impugned order passed by learned Additional Sessions Judge, Shrirampur. Hence, application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.