

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.67 OF 2019
IN
BAIL APPLICATION NO.1911 OF 2017**

M/s.Shree Jain Swetamber Murtipujak Sangh
Through its Secretary
Mr.Ashok B. Jain .. Applicant

Versus

1) Mahendra Saremal Jain; and
2) State of Maharashtra .. Respondent

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Mr.Brijesh Rathod i/b. M/s.V.K. Dubey Associates, Advocate for
the Applicant in APPP 67 of 2019.

Mr.Niranjan Mundargi a/w. Mr.Keral Mehta i/b. M/s.H.H. Nagi
and Associates, Advocate for Respondent No.1.

Mrs.M.M. Deshmukh, APP for the Respondent No.2- State.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 4, 2022.

P.C. :

The application is filed through the Secretary by
Shree Jain Swetamber Murtipujak Sangh under 43 under Section
439(2) of Cr.P.C., seeking cancellation of bail granted to
respondent no.1 vide order dated 21st September, 2017, passed by
this Court in Criminal Bail Application No.1911 of 2017.

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2 First Information Report (“FIR”, for short) was registered under C.R.No.584 of 2016, by Harakchand Sawala on 1st December, 2016, for offences punishable under Sections 406 and 420 of IPC. It was alleged that, the silver engrossed on Indradhwaja and chariot valued about 1,85,00,697/-, owned by Shri Jain Swetambar Murtipujak Sangh’s Sambhavnath Jain Mandir, at Jambhli Galli, Borivali west, was entrusted with secretary of Mahendrabhai Pawesha on trust has been misappropriated by him and the temple trust has been cheated.

3 Learned advocate for the applicant submitted that while allowing application for bail, the condition was imposed that the applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case. There is breach of this condition by the applicant. The applicant is trying to influence the witness. He has been threatening the witnesses. N.C. complaint was registered against him. He has filed complaints before Court of Magistrate. One Kiran Manjrekar had published news in his newspaper and portrayed the image of managing committee in bad light. Reputation of all trustees is spoiled. It was done at the instance of respondent no.1.

4 Learned counsel for respondent no.1 submitted that there is no ground for cancellation of bail granted to the respondent no.1-accused. He was in custody after his arrest in the present case. Bail was granted to him pursuant to the filing of charge-sheet. There is a dispute between two groups of trustees. Respondent no.1 had filed a private complaint seeking investigation under Section 156(3) of Cr.P.C., in which directions were issued by the Court of learned Metropolitan Magistrate 25th Court, Borivali, vide order dated 23rd October, 2018. The respondent no.1 has been exercising his rights of legal remedies.

5 Learned APP, on instructions, submitted that the charge-sheet is already filed against the respondent no.1-accused. The case is pending before the competent Court. Charge is not yet framed.

6 On perusal of the documents on record, it is apparent that there is dispute between respondent no.1 and others. While granting bail to the applicant, vide order dated 21st September, 2017, this Court had observed that nothing is recovered at the instance of respondent no.1. He was in custody from December 2016, and, on completing investigation, charge-sheet is filed. Bail

has been granted in 2017. This application has been preferred in 2019. The application refers to some alleged incidents of 2018. The case is pending before the concerned Court. I do not find any reason to set aside the order granting bail passed by this Court on 21st September, 2017.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Criminal Application No.67 of 2019, is rejected, and, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)