

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPLN) NO.7 OF 2022

Shruti Saurabh Duchale

Versus

Saurabh Gajanan Duchale and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri R.R. Dawda, Advocate for the applicant.

Shri Anup Dhore, Advocate for the non-applicant Nos.1 to 3.

Shri M.J. Khan, A.P.P. for the non-applicant No.4/State.

CORAM : ANIL S. KILOR, J.

DATED : 27/04/2022

1. This is an application filed under Section 439(2) of the Code of Criminal Procedure, for cancellation of bail granted to the non-applicant Nos.1 to 3 vide order dated 08.12.2021.

2. I have heard the learned counsel for the respective parties.

3. Shri Dawda, learned counsel for the applicant submits that on irrelevant considerations the bail has been granted to the non-applicant Nos.1 to 3. He points out that in Paragraph No.7, the observations made by the learned Sessions court is contrary to the record. He further submits that the custodial interrogation of non-applicant Nos.1 to 3

is necessary, in view of the fact that the alleged fabricated documents are not yet recovered by the Police.

4. Learned counsel for the applicant has pointed out from the reply of the State that the non-applicant Nos.1 to 3 have not co-operating in investigation. He therefore, submits that on the ground of perversity and also on the ground that there are supervening circumstances available in this case, the bail granted to the respondent Nos.1 to 3 need to be cancelled.

5. Shri Khan, learned APP fairly states that on the ground that the non-applicant Nos.1 to 3 are not co-operating, an application was filed before the Sessions Court for cancellation of bail which came to be rejected vide order dated 30.03.2022.

6. Shri Dhore, learned counsel for the non-applicant Nos.1 to 3 submits that there is no perversity in the findings recorded by the learned Sessions Court while granting bail and as no ground is made for cancellation of bail, he submits that the present application may be rejected.

7. To consider the rival contentions of the parties, I have perused the record and also the order granting bail to the applicant Nos.1 to 3.

8. It is a settled law that if the supervening circumstances or the order is perverse granting bail, such bail needs to be cancelled. It is also a settled law that, absence of supervening circumstances, do not deter the Court to cancel the bail, in case the bail is granted in heinous offence on irrelevant considerations.

9. In this case, the crime was registered for the offences punishable under Sections 420, 465, 468, 471 and 120-B of the Indian Penal.

10. It has come on the record that the applicant is a wife of non-applicant No.1 and some matrimonial disputes are going on between the parties.

11. After going through the order granting bail to the applicant Nos.1 to 3, it is revealed that though some findings are not recorded properly. However, looking to the offence involved in the present matter, the ultimate conclusion arrived at by the learned Sessions Court, granting bail is sustainable in the eyes of law. In that view of the matter, even if, some findings were not recorded properly those cannot be termed as perverse as the ultimate conclusion arrived at is sustainable in law

12. As far as, the allegations that the applicant Nos.1 to 3 are not co-operating in investigation is

concerned, the application filed by the State for cancellation of bail on the said ground, has already been rejected by Sessions Court on 30.03.2022. In that view of the matter, no ground is made out by the applicant for cancellation of bail. Accordingly, I pass the following order:

The criminal application is **rejected**.

[ANIL S. KILOR, J.]