

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

APPLICATION FOR CANCELLATION OF BAIL NO.59 OF 2022

XYZ
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. M. K. Jadhav h/f Mr. A.S. More
APP for Respondent No.1: Mr. K. S. Patil
Advocate for Respondent No.2 : Mr. A. K. Bhosale

....

CORAM : S.G. MEHARE, J.

DATE : 25-01-2023

PER COURT :

1. Heard the learned counsel for the applicant, the learned A.P.P. for respondent No.1 State and the learned counsel for respondent No.2.

2. The complainant is a thirty two years old lady making allegations that respondent No.2/accused took her and her son under the pretext of providing them job in the company and took them at another place. The allegations also reveal that the accused has provided her job. She stayed there for about three months. In one fine morning, she levelled the allegations against the accused that he wrongfully confined her in a room. However, the facts as observed by

the learned Additional Sessions Judge, Aurangabad, reveals that the accused/respondent No.2 and the victim did not pay the rent to the landlord and hence landlord evicted them. There was delay in lodging the first information report. All these facts were considered by the learned Additional Sessions Judge, Aurangabad, while granting the bail.

3. The learned counsel for the applicant would argue that the Court granting bail did not apply the mind and ignored the statement of the victim recorded under Section 164 of the Code of Criminal Procedure. Therefore, the bail order is liable to be cancelled.

4. The learned counsel for the accused/respondent No.2 has vehemently argued that the learned Additional Sessions Judge has considered the facts and evaluated it for the purpose of bail. Recording the findings based upon the facts itself is application of mind. Hence, it cannot be said that the learned Sessions Judge, while granting the bail, did not apply the mind. There were no complaints of breach of conditions of the bail. There is no substance in the application. Hence, the application deserves to be dismissed.

5. Perused the order granting bail. It appears that the Court has considered the facts of the case and contradictory statements of the victim. The learned Sessions Judge has correctly observed the facts and applied the mind. Nowhere it appears that the learned Additional Sessions Judge considered the evidence which was inadmissible and made admissible evidence which is inadmissible. There are no overwhelming circumstances to cancel the bail. The order granting bail is neither perverse nor arbitrary. Therefore, the Court is of the view that there are no legal and valid grounds to cancel the bail and curtail the liberty granted to respondent No.2.

6. For the above reasons, the application stands dismissed.

(S. G. MEHARE)
JUDGE

ysk