

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

APPLICATION FOR CANCELLATION OF BAIL NO.85 OF 2022

**SANJAY BHAUSAHEB BHANGE
VERSUS
RAJENDRA BHAUSAHEB BHANGE AND OTHERS**

...
Mr. Narayan B. Narwade, Advocate for Applicant
Mrs. R. P. Gour, APP for Respondent No.3 – State
Mr. B. G. Sagade, Advocate for Respondent Nos. 1 & 2
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 09th JANUARY, 2023

PER COURT :

1. Applicant being original informant in Crime No.51/2022 has preferred this application under Sections 439(2) and 482 of the Code of Criminal Procedure, seeking cancellation of anticipatory bail granted in favour of accused/respondent Nos. 1 and 2 by the learned Additional Sessions Judge, Newasa, Ahmednagar, in Bail Petition No.46/2022, on 15/02/2022.

2. Heard learned advocate for applicant, learned advocate for respondent Nos. 1 and 2 and learned Additional Public Prosecutor for State. Perused the investigation papers.

3. Applicant lodged FIR alleging that on 20/01/2022, respondents/accused unauthorisedly entered in his factory, in Ashok Leyland Tempo No.MH-17-BD-2608. They drove away his

employees working there and have stolen Rs.20,000/-, 13 chairs and 3 leather chairs. While leaving, they have damaged and took away wire compound, cement poles and one DVR machine. It is alleged that articles worth Rs.49,000/- were stolen by the accused.

4. It is clear from record that applicant and respondents/accused are real brothers. There is dispute between them in respect of factory/company, which according to the accused is their joint family property. From the documents placed on record it is clear that there is civil dispute going on between the applicant and accused. In the light of these facts, contention of the accused that only with a view to pressurise them they are implicated in the criminal case, is acceptable.

5. The Sessions Court has considered the investigation papers and facts of the case and has rightly granted anticipatory bail to the accused/respondents.

6. Learned advocate for applicant, by relying on ***Rashida Kamaluddin Syed and Another Vs. Shaikh Saheblal Mardan (Dead) Through Lrs. And Another, [(2007) 3 SCC 548]***, has submitted that mere pendency of civil dispute is not a bar if criminal offence is disclosed from the FIR. There cannot be dispute about the said proposition. However, in the facts of the present case, the dispute is between real brothers about joint family property i.e. Company

wherein the accused persons have unauthorisedly entered and have allegedly carried away some articles. In that view of the matter, this citation is distinguished on the facts.

7. Charge-sheet is filed in the matter on 07/04/2022 and the case is numbered as R.C.C. No.161/2022. No useful purpose is likely to be served by cancelling anticipatory bail granted in favour of respondent Nos. 1 and 2. Application being devoid of merits is dismissed.

(NITIN B. SURYAWANSHI, J.)