

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

APPLICATION FOR CANCELLATION OF BAIL NO.223 OF 2022
IN BA/778/2021

XYZ

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Paranjape Prakash S.

APP for Respondent-State : Mr. S. B. Narwade.

Advocate for Respondent No.2 : Mr. Joydeep Chatterji.

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CORAM : S. G. MEHARE, J.

DATE : 08.06.2023

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the Respondent-State and learned counsel for respondent No.2/accused.
2. Leave granted to the applicant to correct the nomenclature of the victim, as the victim is reported dead. The father of the victim be added as applicant. Amendment be carried out forthwith.
3. The applicant is seeking cancellation of bail granted to the applicant by this Court on 13.10.2021, in Crime No.437 of 2020, registered with Dhule Taluka Police Station, District Dhule under Sections 376(3), 305, 354(D)(1), 511 of the IPC and under Sections 4 and 12 of the POCSO Act on the ground

that the applicant breached the condition not to enter in the radius of 10 k.m. of the village till conclusion of the trial except for attending the Court for the dates fixed in the trial.

4. The learned counsel for the applicant would submit that the last date for attending the trial was 23.08.2021 and the next date was 27.09.2021. However, on 18.09.2022, the applicant entered the village in breach of the bail condition and assaulted the cousin brother of the victim. The report of the said incident was lodged and police registered a crime bearing No.544 of 2022. He has filed the first information report. He would argue that this is an apparent evidence against the applicant that he has breached the bail conditions and assaulted the cousin of the victim. Therefore, the bail deserves to be cancelled.

5. Per contra, learned counsel for respondent No.2 Mr. Chatterji would submit that the possibility of false report cannot be ruled out. Now-a-days, many times a false reports are lodged. Same happened with the applicant. Therefore, unless the allegations are found, it cannot be believed that it was the applicant who has allegedly committed the crime on 18.09.2022. The case is now posted for charge. The applicant may be given one opportunity and trial may be expedited.

6. The papers produced on record clearly indicates that on the date of the incident dated 18.09.2022, respondent No.2 has no reason to enter the village Savalitanda where the victim resides. On the said date, the trial of the sessions case was not posted. The applicant not only entered the village but also committed the crime. So the apprehension in the mind of the victim of threatening her is just.

7. The application for cancellation of bail stands allowed.

8. Since the applicant has breached the bail condition of order dated 13.10.2021 in the above crime, his bail stands cancelled.

9. He is directed to surrender his bail bonds and surety bond stands cancelled.

10. He shall surrender before the concerned Additional Sessions Judge, Dhule on or before 15.06.2023.

11. Learned counsel for respondent No.2 prays to stay this order for four weeks from today. In the interest of justice, the order is stayed for four weeks from today.

(S. G. MEHARE, J.)

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vmk/-