

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

APPLICATION FOR CANCELLATION OF BAIL NO.214 OF 2021
WITH ACB/218/2021

XYZ
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. A. K. Bhosle
APP for Respondent No.1: Mr. S. B. Narwade
Advocate for Respondent No.2 : Mr. Shaikh Kayyum Najir Shaikh
Kayyum Najir
....

CORAM : S. G. MEHARE, J.

DATE : 04.07.2023

PER COURT :

1. The applicant is the victim claiming cancellation of bail granted to the accused by the learned Special Judge (POCSO Act) Aurangabad in Criminal Bail Application No. 1890 of 2021, dated 15.11.2021 and 1905 of 2021 dated 15.11.2021.

2. The learned special Judge granted bail specifically observing that the contentions of the victim in her report and history narrated to the doctor are totally different. Thus, the serious accusation of rape against the applicant needs consideration on merits.

3. Considering the above contradiction apparent on the face of record, the learned counsel for the victim has vehemently argued that the Court granting bail did not consider the fact that there were eleven injuries on the person of the victim. She was 14 years old. She was raped. The offence was serious. The Court granting bail did not consider the entire aspects of the case; hence order granting bail deserve to be cancelled.

4. Per contra, the learned counsel for the respondent No.2/accused has vehemently argued that the victim had two stories contrary to each other. That raises a serious doubt. In fact, no incident as such happened. The applicant Akash and the victim had love affair. She had lodged the report under the pressure of her family. In the first information report she did not mention about the injuries as noticed by the Medical Officer. Therefore, application deserves to be dismissed.

5. Unless there are overwhelming circumstances, the Court should be slow in canceling the bail granted to the accused. The order shall be perverse and arbitrary on its face of record, to call back or cancel the order granting bail. Perusal of the reasons granting bail appears neither arbitrary nor perverse. The contradictory facts were considered and discretion has been exercised by the Court granting bail.

Considering the law as regards cancellation of bail, the Court is of the view that neither there are overwhelming circumstances nor the order granting bail is perverse or arbitrary. Hence, there is no scope to allow the prayer of the victim. Hence, following order

ORDER

- (i) Both the applications stand dismissed.
- (ii) No order as to costs.

(S. G. MEHARE)
JUDGE

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