

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

APPLICATION FOR CANCELLATION OF BAIL NO.215 OF 2021

XYZ
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. Vaibhav B. Kulkarni, Advocate for Applicant
Mr. A. A. Jagatkar, APP for Respondent – State
Mr. S. S. Adawale, Advocate for Respondent Nos. 2 to 4

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 09th FEBRUARY, 2023

PER COURT :

1. By this application filed under Section 439(2) of Cr.P.C., prosecutrix seeks cancellation of anticipatory bail granted in favour of accused persons in Crime No.1081/2021, registered with MIDC Waluj Police Station, Aurangabad, for offence punishable under Sections 376(2)(f), 354, 354(A), 354(b), 406, 504 and 506 r/w 34 of the Indian Penal Code, by the learned Additional Sessions Judge, Aurangabad, on 17/11/2021.

2. On 02/11/2021, FIR is lodged alleging that marriage of the informant was solemnized on 19/10/2020 as per the rites and customs of Banjara community. Prosecutrix started residing with her husband at the house of her sister-in-law. Husband of the sister-in-law ravished the prosecutrix on 07/11/2020. Thereafter, on 12/02/2021, at about 07:00 p.m. in the evening her father-in-law

ravished her. Thereafter the prosecutrix left matrimonial home and started residing at her maternal home. Accused persons were granted anticipatory bail by the Sessions Court by order dated 17/11/2021. The said order is impugned in the present application.

3. Heard learned advocate for applicant, learned Additional Public Prosecutor for State and learned advocate for respondent Nos. 2 to 4.

4. Learned advocate for applicant submits that only on the point of delay in lodging FIR the Sessions Court has erroneously granted anticipatory bail in favour of the accused persons, ignoring the serious allegations levelled against them. Medical examination of the accused persons is not conducted and their custody is necessary for that purpose. This aspect is ignored by the Sessions Court while allowing the application of anticipatory bail.

5. Learned advocate for accused persons, on the other hand, supported the order and submitted that accused persons are falsely implicated in the present crime by lodging the FIR belatedly by the prosecutrix.

6. Learned Additional Public Prosecutor submits that the appropriate orders on the basis of record may be passed.

7. Charge-sheet came to be filed in the present case on

30/12/2021. The case is numbered as R.C.C. No.3307/2021 and is pending for appearance of the accused persons.

8. There appears inordinate delay in lodging FIR and the Sessions Court, therefore, considering the investigation papers, has exercised it's discretion in granting anticipatory bail to the accused persons.

9. In the facts of the present case, it cannot be said that the Sessions Court has wrongly exercised it's discretion in granting anticipatory bail. Considering the fact that charge-sheet is filed and the case is pending for appearance, it is not desirable to cancel the anticipatory bail granted in favour of the accused persons. Application is, therefore, rejected.

(NITIN B. SURYAWANSHI, J.)