

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

39 APPLICATION FOR CANCELLATION OF BAIL NO.245 OF 2022

SAU. SHOBABAI W/O. DEVIDAS KHALANE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant :Ms Jakhade Rutuja L.
APP for Respondent State: Mr. S. P. Sonpawale

CORAM : S. G. MEHARE, J.

DATE : 2nd JANUARY, 2023

ORDER:

1. Heard learned advocate for the applicant.
2. The applicant has prayed to cancel the bail order passed in favour of the accused/respondent No.2 by the learned Additional Sessions Judge, Dhule below Exh. 3 in Sessions Case No. 173 of 2022 dated 13.09.2022.
3. The learned counsel for the applicant would argue that the Court, while granting bail, did not impose any condition. The accused respondent No.3 threatened the witnesses after granting bail. The report thereof has also been filed to the Police Station Dhule City on 18.11.2022. Cancellation of bail has also been sought on the ground that section 306, 304(B), 498-A r/w 34 of the Indian Penal code are attracted and the accused/ respondent No.2 is the main accused and the allegations constitute offence against him.
4. The powers of rejecting bail under section 439 (2) Criminal Procedure Code are well settled by catena of judgments. For

cancellation of bail, there must be overwhelming circumstances. The order granting bail should be arbitrary and perverse.

5. The learned Additional Sessions Judge, while granting the bail, has specifically observed in Paragraph 8 that the informant has contended that accused were threatening them but no specification as to when the accused threatened them was given. It was also submitted by the applicant that accused No.1 who is respondent No.2 here is of bully tendencies and is addicted to liquor, gutka, ganja and also has a keep, however nothing is mentioned in the first information report and the police statement. The reason assigned for discarding the objection of threatening witnesses appears to be correct and proper. The learned Additional sessions Judge, while granting bail, has considered the entire material and appears to have applied mind.

6. The bail is a matter of discretion and imposing condition while granting bail is not a rule. The order granting bail, on examination, appears to be legal and proper. The bail order sought to be cancelled is neither arbitrary nor perverse. Hence this Court does not find any substance in the application. Therefore the application is rejected without notice to the respondents.

(S. G. MEHARE, J.)

JPChavan