

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.379 OF 2021**

Ramkunwar Singh Yadav .. Applicant
Versus
The State of Maharashtra and anr. .. Respondents
...

Mr.Kalpesh Patil for the applicant.
Mr.Y.M. Nakhwa, APP for the State.
Mr. Mahendra Gavde, P.S.I, Biwadni Police Station.

**CORAM: BHARATI DANGRE, J.
DATED : 10th OCTOBER, 2023**

P.C:-

1 On the last date, the notice was directed to be issued to the respondent no.2, the complainant, as the application is taken out for quashing and setting aside the order dated 17/03/2021, passed by Additional Sessions Judge, Thane, when the anticipatory bail granted to the applicant was cancelled at the instance of the complainant.

2 The learned APP on instructions of the Mr.Mahendra Gavde, who is present in the Court for representing the concerned police station make a statement that the complainant is not traceable and for arriving at the above conclusion, statement of one Mr. Anant Patil is recorded on 8/09/2023.

Mr. Anant Patil is the owner of the room, which was cited as an address in the application, preferred for cancellation

of bail. Mr. Patil state that no such lady was residing in the room belonging to him and she even never resided prior to this date. The statement of Mr. Anant Patil is signed by him in the presence of the police personnel, Bhiwandi Police Station.

The photo copy of the same shall be retained in the proceedings.

It is thus clear that the complainant is not traceable hence, I proceed to hear the application.

3 The applicant was accused of committing an offence punishable under Sections 376 and 506 of IPC. While he was apprehending his arrest, the Additional Sessions Judge, Thane by order dated 29/06/2020 protected him from arrest, subject to certain stipulations, one of them being, he shall not make any inducement directly or indirectly, or threaten or pressurize any prosecution witnesses.

4 The prosecutrix made an application for cancellation of bail on the ground that he has breached the conditions. While giving the reference to the acts committed by the appellant/accused, she made reference to two NCs, N.C. No. 823/ 2020 dated 19/06/2020, and N.C. No. 868/2020 dated 26/06/2020.

She specifically averred that some unidentified persons on three occasions had threatened her aunt and herself, for withdrawing the FIR and it resulted in N.Cs being filed. She also made reference to another NC dated 10/07/2020, N.C. No.943 of 2020, and she make a grievance that the police only

registered the N.Cs and did not inquire into her accusations, as the accused has strong political connect and enjoy money power.

Being convinced by the aforesaid version of the prosecutrix/complainant, the Additional Sessions Judge, Thane cancelled the anticipatory bail granted.

5 When the applicant approached this Court on 25/03/2021, the operation of order dated 17/3/2021 is stayed and the order continued to operate even till date.

It is to be pertinent to observe, that the two N.Cs which formed the basis of the impugned order are infact registered prior to the order being passed, protecting the applicant from arrest i.e. on 29/06/2020 and only one N.C is filed, thereafter. Apart from this, it is not the case of the prosecution that after 25/03/2021, when he was granted protection there was any attempt on his part to establish any contact with the complainant or in any manner pressurize her or influence her or any of her family members.

6 In the wake of the above, since the complainant has not put appearance and on completion of investigation, the charge-sheet has been filed on 2/11/2020.

In the wake of the above, the order dated 17/3/2021, deserve to be setaside and it is accordingly setaside.

The protection conferred on the applicant by order dated 29/06/2020 is restored. Needless to state that the applicant shall be bound by the terms and conditions of the said order that he shall not make any attempt to offer any inducement or threat

to the prosecutrix or pressurize any prosecution witnesses.

Let the applicant mark his attendance in the concerned police station on first Monday of trimester between 3:00 to 5:00 p.m.

He shall also attend the trial on regular basis, unless and until specifically exempted.

(SMT. BHARATI DANGRE, J.)