

SATISH
RAMCHANDRA
SANGAR

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 193 OF 2019

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SATISH RAMCHANDRA
SANGAR
Date: 2023.02.14
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... Applicant

V/s.

The State of Maharashtra and Anr.

... Respondents

Mr.Owais Anwar Pechkar, Advocate for Applicant.

Mr.Y.Y.Dabke – APP for the Respondent No.1 – State.

Mr.Sagar S.Ambedkar–Appointed as Legal Aid Counsel for Respondent No.2.

CORAM : S. M. MODAK, J.

DATE : 3rd FEBRUARY, 2023

P. C. :-

1. Heard learned Advocate for the Applicant, Learned APP for the Respondent No.1 – State and learned Advocate for Respondent No.2- Accused appointed as Legal Aid Counsel.

2. The Application is moved on behalf of the victim by his mother. Even though, the victim is a boy child, let his name be hidden. Necessary amendment be carried out forthwith.

3. Learned Additional Sessions Judge, Khed granted bail to Respondent-Accused vide order dated 11th April, 2019. There is condition not to enter Chiplun city, not to contact Prosecution witnesses till disposal of the case. This Application for cancellation of bail is made on two grounds. One is not considering the materials like statement under Section 164 of the Code of Criminal Procedure, by the trial Court and secondly, the incident of threat given by the Accused to the mother of the victim. There is NC lodged at Chiplun Police Station on 20th April, 2019. Its copy is placed on record. Surprisingly there was direction by the

Sessions Judge to the accused to furnish alternate address by the applicant when he has not to enter Chiplun.

4. Learned Advocate relied upon a judgment in case of *K. Umayavel V/s. The State rep. by The Inspector of Police [Crl.O.P.(MD) No.4142 of 2019 : Madras High Court Bench at Madurai : 27th April, 2019]* and more specifically Para No.10. It is on the point of not considering the statement under Section 164 of Cr.P.C.

5. Learned APP supported the submission and admits about registration of non cognizable offence. They have also moved a proposal for taking action under Section 110 of the Cr.P.C., before Sub-Divisional Officer. As against this, learned Advocate for the Respondent-Accused submitted that in fact, as contemplated under the provisions of Section 439(2) of the Cr.P.C., Applicant can move the Court which has granted bail.

6. I have perused the papers. It is better if the Applicant will move the Court which has granted bail. It is told that now there is a Court of Additional Judge established at Chiplun and the bail was granted by the Additional Sessions Judge, Khed. If the Application is moved there, Court will be in a better position to hear that Applicant-Accused and will also be represented by an Advocate there. There is also a request to expedite the trial.

7. I intend to grant liberty to the Applicant to move the Court of Additional Sessions Judge, Chiplun with directions to expedite the Special Case No.57 of 2020.

8. It can only be said that inspite of the condition, NC case is registered, the Sessions Court to take note of the materials and then to decide the matter. In view of that, following order is passed :-

ORDER

- (i) Applicant is granted liberty to move the Court of Additional Sessions Judge, Chiplun under Section 439(2) of the Cr.P.C.
- (ii) If such Application is filed, it be decided within a period of one month from the date of filing of this Application.
- (iii) The trial of the Special Case No.57 of 2020 is expedited and to be finished within a period of one year.

9. It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in accordance with the law, uninfluenced by the observations made in this order.

10. In view of the above, Application is disposed of.

11. Learned Advocate for the Respondent No.2 be paid fees as per the rules.

12. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]