

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 692 OF 2016**

Sweta w/o. Vinay Tibrewal .. Applicant
Versus
Vinay S/o. Sajjan Kumar Tibrewal and .. Respondents
anr
...

Mr.Ashok Saraogi for the Applicant.
Mr.Manoj Harit a/w Samidha Padwal i/b Manoj Harit & Co for
the Respondent No.1.
Mr. S.R. Agarkar, APP for Respondent No.2/State.

**CORAM: BHARATI DANGRE, J.
DATED : 21st MARCH, 2023**

P.C:-

1 By the present application, the applicant, seek setting aside of the order dated 19/10/2016 passed in Criminal Bail Application No. 461 of 2016, by which the respondent no.1 was released on bail by imposing certain conditions.

The applicant is the original complainant, who has lodged the complaint against respondent no.2 her husband and it has resulted in invoking of Section 498 A, 323, 406, 504, 506, 507, 465, 467, 468, 471, 420 read with 34 of IPC. The complaint also indicted the relatives of the husband.

2 Pursuant to the said FIR being lodged the respondent no.2 sought protection from arrest, which was declined by the Additional Sessions Judge Mumbai on 20/08/2015. The co-

accused Sajjankumar and Smt. Santoshdevi Sajjankumar Tibrewal, were however conferred with the said protection by this Court by its order dated 17/03/2016.

3 The applicant husband filed an application under Section 439 of CrPC seeking his release on bail, which was granted by the Sessions Court at Dhindoshi (Borivali) division on 19/10/2016.

While releasing the applicant on bail, the Court recorded that the charge-sheet is filed by the concerned Police Station and the entire case of the prosecution is based on documentary evidence and there is no likelihood of tempering the evidence of the prosecution apart from the fact that there is no chance that he can abscond, since he is permanent resident of Mumbai.

While releasing the applicant on bail, certain conditions were imposed upon him, which included an condition of not leaving jurisdiction of the Court without prior permission and not making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the said fact to the Court or Police.

4 The application came to be moved on 25/11/2016 seeking setting aside of the order and if the narration in the application is to be looked into, it is contended in para 14.

The applicant expressed apprehension of threat to her life as well as to the life of her children and she further state that there was no occasion to release the applicant on bail as he had

mislead the Court. It was also projected that the respondent no.1 is facing prosecution at the hands of Bihar Police Station at Patna as he had defrauded the Government.

5 I have heard learned counsel for the applicant, learned counsel for the respondent no.1 and the learned APP for the State.

The application has come up before me after more than 6 years of its filing, and by this time the trial must have progressed, and this is one of the reason why I am not inclined to entertain the application. Apart, on its perusal, the wife of respondent no.1 has referred to an incident that has occurred immediately on 23/11/2016 after the respondent no.1 was released on bail, but no additional application/affidavit is filed alleging that there was repetition of the said incident. More over if such incident had taken place it was open for the applicant to approach the Police Station. The learned counsel for the respondent would submit that the allegation levelled in paragraph no. 14 is unfounded as it was some unknown person, who had pushed her and by no stretch of imagination the act is attributed to the husband.

6 The parameters of cancellation of bail under Section 439(2) of Cr.P.C being limited in its operation, and since no case had been made out for exercise of the said power, which definitely warrant distinct considerations and require a reasons sufficient for withdrawal of the liberty conferred on an accused, I am not inclined to entertain the application despite insistance of Mr. Saraogi to the effect that a compromise can be worked out

between the parties. There are other options for the parties to effect any compromise, they so desire.

7 The present application is dismissed.

(SMT. BHARATI DANGRE, J.)