

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPLN) NO. 135/2022

(XYZ IN CRIME NO. 301/2020 **VERSUS** STATE OF MAHARASHTRA, THR. PSO PS RAJURA, DISTRICT CHANDRAPUR & ANOTHER)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mrs. S.P. Giratkar, counsel for the applicant.
 Shri I.J. Damle, Additional Public Prosecutor for the non-applicant no.1.
 Shri N.Samundre, counsel for the non-applicant no.2.

CORAM : ANIL L. PANSARE, J.

DATE : FEBRUARY 21, 2023.

By the present application under Section 439(2) of the Code of Criminal Procedure, 1973 (for short, 'the Code') the applicant is seeking cancellation of bail on the ground that the non-applicant no.2 has breached the conditions of the bail.

The non-applicant no.2 was released on bail vide order dated 13.08.2020 in Criminal Application (BA) No.337 of 2020 on certain conditions. One of the conditions is that he shall not tamper with the evidence of the prosecution witnesses. The non-applicant no.2 is accused of committing offence under Sections 376(m)(n), 354(D), 325, 324, 504 and 506 of the Indian Penal Code. It also appears from the order granting bail that the applicant and the non-applicant no.2 were in relationship.

The learned counsel for the applicant has invited my attention to the N.C. reports lodged against the non-applicant no.2. According to the applicant on 27.02.2021 and 31.10.2022 the non-applicant no.2 intercepted the applicant and threatened her to inflict bodily injury if she does not withdraw the case against him.

The learned Additional Public Prosecutor would support the case of the applicant.

The learned counsel for the non-applicant no.2 submits that N.C. reports have been lodged to create an evidence for cancellation of bail. The applicant is a law student and therefore is aware of the provisions and the same are being misused by her. It is submitted that the non-applicant no.2 is working as Electrician with the Western Coalfields Limited at Chandrapur.

The charge-sheet has been filed but the trial has not yet commenced. Considering the fact that the applicant and the non-applicant no.2 were in relationship and that the non-applicant no.2 has been released on bail, the application could be disposed of by putting the non-applicant no.2 to further conditions and also by issuing appropriate directions to the Investigating Officer. It will not be however proper to curtail the personal liberty granted in favour of the non-applicant no.2. Hence, the following order is passed:-

- I. The non-applicant no.2 shall not enter the territorial jurisdiction of Rajura City till the completion of the trial before the Sessions Court.
- II. The Investigating Officer shall take steps to protect the applicant in terms of the provisions of the Maharashtra Witness Protection and Security Act, 2017.
- III. The applicant is at liberty to file application before the learned Sessions Court for protection under the provisions of the Maharashtra Witness Protection and Security Act, 2017.

The criminal application is disposed of in aforesaid terms.

(ANIL L. PANSARE, J.)

APTE