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**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

**BEFORE
HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR**

ON THE 23rd OF JANUARY, 2024

MISC. CRIMINAL CASE No. 37370 of 2023

BETWEEN:-

**BHAGWAT SINGH LODHI S/O LATE SHRI PYARELAL,
AGED 84 YEARS, RESIDENT OF VILLAGE GUNHASA P.S.
INDAR TEHSIL KOLARAS DISTRICT SHIVPURI
(MADHYA PRADESH)**

.....APPLICANT

(SHRI NITIN GOYAL- ADVOCATE FOR APPLICANT- COMPLAINANT)

AND

- 1. THE STATE OF MADHYA PRADESH THROUGH
POLICE STATION INDAR DISTRICT SHIVPURI
(MADHYA PRADESH)**
- 2. DEVENDRA @ HALKE YADAV S/O SHRI BABU
SINGH YADAV, AGED ABOUT 41 YEARS,
RESIDENT OF VILLAGE GUHANSA INDAR THASIL
KOLARAS, DISTRICT SHIVPURI (MADHYA
PRADESH)**
- 3. VIRENDRA GIR S/O SHRI DEEWAN GIR, AGED
ABOUT 36 YEARS, RESIDENT OF VILLAGE
GUHASA P.S INDAR, DISTRICT SHIVPURI
(MADHYA PRADESH)**

.....RESPONDENTS

***(SHRI RAJENDRA SINGH YADAV- PUBLIC PROSECUTOR FOR
RESPONDENT NO.1- STATE AND SHRI RAJESH GOSWAMI- ADVOCATE
FOR RESPONDENTS NO.2 AND 3- ACCUSED)***

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*This application coming on for hearing this day, the court passed the
following:*

ORDER

This application under Section 439(2) of CrPC is moved on behalf of
applicant (complainant) for cancellation of order dated 28-04-2023 passed in

MCRC No.15397 of 2023 and order dated 12-05-2023 passed in MCRC No.20671 of 2023 by Coordinate Bench of this Court whereby, respondent Nos. 2 and 3 (Devendra alias Halke Yadav and Virendra Gir) have been extended the benefit of bail.

Main contention of applicant- complainant, in addition to the grounds mentioned in this application, is that Coordinate Bench of this Court did not consider the missing person's report while granting bail to respondents no.2 and 3 as witness Sunil in his statement has specifically stated that on 09-11-2022 he had seen accused with deceased. It is further contended that after release, respondent no.3- Virendra Gir threatened the complainant as well as his witnesses to enter into a compromise. The complainant had approached the Higher Police Officers by filing applications on 04-07-2023 and 05-08-2023. The complainant has lodged FIR at Crime No.171 of 2023 at PS Indar, District Shivpuri against accused Virendra Giri for offence punishable under Sections 195-A, 294, 506 of IPC. The wife of co-accused Virendra Gir has falsely lodged FIR on 02-08-2023 against nephew and grandson of complainant for offence punishable u/S 376 of IPC to pressurize them to settle the matter. Therefore, the bail orders dated 28-04-2023 and 12-05-2023 deserve to be cancelled.

Per contra, learned Counsel appearing for respondents No.2 and 3 opposes the contentions of complainant and submits that the respondents No.2 and 3 have never misused the liberty so granted to them and allegations levelled against them by the complainant are baseless.

Heard counsel for the parties.

The Coordinate Bench of this Court has granted bail to concerned

accused after going through the case diary and hearing rival contentions advanced by learned counsel for the parties. The order dated 28-04-2023 reflects that the contentions with regard to accused Virendra Gir "last seen together with deceased" was raised by learned counsel for the applicant. On consideration of rival contentions, reasoned order granting the bail was passed. Reliance is placed on complaints made against respondents No.2 and 3 but mere filing of complaints or lodging of FIR would not by itself substantiate violation of conditions of bail. The veracity of allegation made in FIR is yet to be investigated. It is apparent that both the parties are lodging complaints against each other. In such a scenario, this Court does not find it proper to cancel the bail granted in favour of respondents No.2 and 3. No case is made out for interference in orders dated 28.04.2023 and 12.05.2023. The application under Section 439(2) of CrPC *sans* merit is hereby **dismissed**.

MKB

(SANJEEV S KALGAONKAR)
JUDGE