



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
BENCH AT AURANGABAD.

942 APPLICATION FOR CANCELLATION OF BAIL NO. 149 OF 2023

XYZ  
VERSUS  
PAVAN RAJKUMAR AUTADE AND ANOTHER

...  
Advocate for Applicant : Mr. Manoj Dharmaraj Shinde.  
Advocate for Respondent No.1 : Mr. Shrimant Ravsaheb Kedar.  
APP for Respondent No.2 / State : Mrs. Pratibha J. Bharad.  
...

CORAM : **SANJAY A. DESHMUKH, J.**  
DATE : 12<sup>th</sup> January, 2024.

**P.C.:**

1 This is an application, under Section 439(2) of the Code of Criminal Procedure, for cancellation of bail granted to respondent No.1 by the learned Additional Sessions Judge, Majalgaon, District Beed vide order dated 9<sup>th</sup> June, 2023. Respondent No.1 was arrested in Crime No.98 of 2023, for the offences punishable under Sections 363, 366 and 376(2)(n) of the Indian Penal Code and Sections 4(2) and 6 of the POCSO Act.

2 The learned counsel for applicant pointed out that the applicant is informant. No notice was issued to her as per Section 439 (1)(A) of the Code of Criminal Procedure, though respondent No.1 was prosecuted under the provisions of the POCSO Act. This mandatory

course of action was not followed by the learned Additional Sessions Judge.

3           The learned APP for the State supported the contentions of the applicant.

4           Considering the fact that the notice was not issued to the victim/informant as per Section 439 (1)(A) of the Cr.P.C., the impugned order granting bail to respondent No.1 deserves to be set aside and the regular bail granted to respondent No.1 deserves to be cancelled. The impugned order is therefore, set aside. The learned Additional Sessions Judge, Majalgaon, District Beed, is directed to re-hear Bail Application No.218 of 2023 after issuing notice to the informant and after giving an opportunity of being heard to both the sides.

5           With these observations, the application is disposed of.

**[ SANJAY A. DESHMUKH, J. ]**

*nga*