



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO. 53 OF 2024

X.Y.Z.

... Applicant

Versus

1. The State of Maharashtra,
Through Udgir Rural Police Station,
Dist. Latur in Crime No.073 of 2024.
2. Baban S/o. Pandu @ Pandurang Rathod,
Age : 29 years, Occu. : Agri.,
R/o. Kaulkhed, Tq. Udgir, Dist. Latur. ... Respondents.

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Mr. S. B. Kendre, Advocate for Applicant.
Mrs. Vaishali S. Chaudhari, APP for Respondent – State.
Mr. Rahul Deshmukh, Advocate for Respondent No.2
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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 3rd MARCH 2025

PRONOUNCED ON : 6th MARCH 2025

ORDER :

1. Applicant herein seeks cancellation of bail granted to respondent no.2 by order dated 06.03.2024 by learned Special Judge (POCSO Act) and Additional Sessions Judge, Udgir on application Exh.42 of 2024.

2. Taking through the FIR, learned counsel for applicant would submit that, serious offence is committed. That, barely after one month of FIR, bail application has been entertained and bail is

granted. That, there are allegations of sexual intercourse on promise of marriage, even when victim was a minor. That, she had conceived. That, even when investigation was in progress and medical report as well as C.A. report was awaited, bail application has been allowed. It is pointed out that, learned trial Court has not considered the gravity of the offence and even the criminal antecedents of respondent no.2. Hence, prayers are raised for cancellation of bail.

3. Learned counsel for respondent opposed on the ground that, learned trial court has heard both sides on merits after appreciating the contents of FIR as well as police papers placed before it and considering the age of the victim and noting that there was no threat or force and rather relations were consensual due to love relations and thereafter by exercising its discretion has granted bail. Applicant i.e. present respondent no.2 has abided with all conditions imposed by the court, and therefore, according to learned counsel, present application has no merits and it is mere attempt to seek cancellation of bail.

4. Heard. Perused the papers. It seems that crime bearing No.73 of 2024 was entertained by Udgir Rural Police Station regarding allegation of commission of offence punishable under sections 376, 376(2)(n) of IPC and under section 4, 5(j)(2), 5(1) and

6 of POCSO Act. After registration of crime dated 01.02.2024, Bail Application No. 42 of 2024 was pressed into service before learned Special Judge (POCSO), who issued notice and after hearing both sides, has allowed the bail application.

5. Perused the FIR as well as impugned order. In paragraph Nos.2, 3, 4 and 5 case set up by applicant/present respondent no.2 has been appreciated. In paragraph no.7, affidavit filed by victim is also considered and discussed. Apart from judicial precedents taken recourse to by learned counsel for applicant, from paragraph no.10 onwards learned trial court has passed a reasoned order regarding the nature of allegations, age of the victim and noticed that victim is more than 18 years of age and prima facie it appeared that relations were consensual. In short, learned trial Judge noticed that, she had already attained the age of discretion. Therefore, considering the contents of FIR, nature of allegations and that there was no previous reporting till conceiving pregnancy, learned trial Judge has exercised its discretion. This court has noticed that, discretion has been judiciously exercised by hearing both sides and going through the papers.

6. As pointed out, there is no adverse remark about non co-operation or misuse of liberty since more than a year i.e. from passing of the order dated 06.03.2024.

7. Therefore, this court does not find any merits in the application for cancellation of bail. Law is fairly settled that, liberty once granted cannot be withdrawn without just and sufficient cause. This court does not find any cause so as to withdraw the liberty once granted. Hence, the following order is passed :-

ORDER

The application for cancellation of bail is rejected.

(ABHAY S. WAGHWASE, J.)