



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO. 119 OF 2024

X.Y.Z.

... Applicant

Versus

1. The State of Maharashtra,
Through Police Station Officer,
Sonai Police Station, Sonai,
Tq. Newasa, Dist. Ahmednagar.

2. Shoeb @ Suraj Latif Shaikh,
Age : 22 years, Occu. : Education,
R/o. : Chanda, Tq. Newasa,
Dist. Ahmednagar.

... Respondents.

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Mr. Rajendra S. Kasar, Advocate for Applicant.

Mr. N. D. Batule, APP for Respondent – State.

Mr. S. V. Jadhavar h/f. Mr. S. S. Thombre, Advocate for
Respondent no.2.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 7th MARCH, 2025

PRONOUNCED ON : 11th MARCH, 2025

ORDER :

1. Present application is at the instance of original informant for cancellation of bail granted to resplendent no.2 in Crime No. 279 of 2021 registered at Sonai Police Station, Tq. Newasa, Dist. Ahilyanagar for offence punishable under sections 376(2)(i), 363, 366, 354, 109 of IPC and provisions under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Learned counsel at the outset submitted that, serious offence was committed on a minor along with offence of Atrocities Act. That, in spite of so in Bail Application No. 233 of 2022 bail was granted. However, his main grievance is that there is breach and violation of condition imposed while granting bail. Learned counsel took this court through the order and the conditions, and submitted that, respondent no.2 was specifically directed not to attempt to tamper the witness or contact victim or her family members in any manner. Learned counsel submitted that, in spite of so the minor girl has been taken away from the custody of her parents. FIR to that extent has been lodged and therefore according to learned counsel, apparently liberty has been misused and condition of bail has been violated and hence, bail granted to respondent no.2 is sought to be cancelled.

3. Learned APP also supported above submissions by pointing out that, post grant of bail, girl has been kidnapped of which report is received and crime is registered.

4. Learned counsel for respondent no.2 submitted that all accusations are false. That, there was not misuse of liberty as alleged. That, girl was not kidnapped as alleged. Rather girl was

major. She is married with the respondent no.2 and their marriage is also registered. That, subsequent FIR is clear attempt to get bail granted earlier cancel.

5. Heard. Perused the papers. FIR dated 15.08.2021 at the instance of mother was entertained by Sonai Police Station, wherein it has been alleged that informant's daughter aged 15 years was kidnapped by unknown person after being lured. On above report, Sonai Police seems to have registered crime bearing No. 0279 of 2021 for offence punishable under section 363 of IPC and investigation was carried out. Respondent no.2 accused seems to have approached this court vide Bail Application No. 233 of 2022 seeking bail after his arrest in above crime. This court by order dated 22.06.2022 after hearing both sides seems to have granted bail by imposing conditions and as pointed out clause no. (ii) of the condition prohibits applicant from making contact with victim or any witness, in any manner or both.

6. Now, while seeking cancellation of above bail recourse is taken to FIR dated 14.05.2024 again at the instance of previous informant. This time report is lodged for kidnapping of her daughter aged 17 years, 11 months and 28 days. However, respondent no.2 original accused has placed affidavit on

13.02.2025 annexing birth certificate of the victim issued by Health Department, Government of Maharashtra, wherein the date of birth of victim is shown as 14.05.2006. Apparently, the first FIR dated 15.08.2021 at the instance of mother does not carry date of birth, but report is lodged that girl was 15 years of age. If the date of birth of victim is 14.05.2006 at the time of present application, victim had achieved almost 18 years. Though marriage is shown to be performed by placing declaration of marriage and certificate by Kazi, the same cannot be considered as marriage certificate. Be it so. Subsequent FIR dated 14.05.2024, which is now made basis for cancellation of bail for contacting victim, apparently subsequent FIR is also against unknown person and not directed against present respondent no.2. Further even State has not moved for cancellation of bail and there is no adverse remark from police authorities.

Therefore, for above reasons, this court is not inclined to withdraw the benefit of bail granted to respondent no.2.

7. The application stands rejected.

(ABHAY S. WAGHWASE, J.)