



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO. 243 OF 2023

XYZ

..... Applicant

Versus

1. The State of Maharashtra
2. Saurabh Mohan Thombare,
Age : 20 Yrs., Occu. : Labour,
R/o. Mohari, Tq. Pathardi,
Dist. Ahmednagar.
3. Shivaji Mohan Thombare,
Age : 27 Yrs., Occu. : Labour,
R/o. Mohari, Tq. Pathardi,
Dist. Ahmednagar.

..... Respondents

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Advocate for Applicant : Mr. Niraj Chudiwal h/f Mr. Satej S. Jadhav
APP for Respondent No.1-State : Mr. N.D. Batule
Advocate for Respondent Nos.2 & 3 : Mr. Pankaj A. Bharat

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CORAM : ABHAY S. WAGHWASE, J.

Dated : 14th February 2025

ORDER :-

1. This is an application for cancellation of bail granted to respondent Nos.2 & 3, vide order dated 04.12.2023, in Criminal Bail

Application No.1834 of 2023, by learned Special Judge under POCSO Act, Ahmednagar.

2. Learned Counsel for the applicant pointed out that, crime was registered against respondent Nos.2 & 3, for commission of offence under Sections 354, 341, 323, 504 and 506 of the Indian Penal Code, 1860 and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012. He further pointed out that, respondent Nos.2 & 3 applied for bail and the same was allowed by imposing conditions. However, they have breached the conditions of bail by entering into the village of the victim even when they are prohibited and moreover, issued threats to the victim. That, N.C. was also registered in that regard. On said grounds, learned counsel seeks cancellation of bail.

3. Learned APP also pointed out that, there is N.C. registered against respondent Nos.2 & 3 and as such, by entering into the village of the victim, they breached the condition of bail so granted. Hence, bail granted to the respondents deserves to be cancelled.

4. Learned counsel for respondent Nos.2 & 3 has resisted

the above application on the ground that, above attempt of filing N.C. is merely to seek cancellation of bail.

5. Heard. Perused the papers. It seems that, on account of registration of crime bearing No.1094 of 2023 dated 27.10.2023, Pathardi Police registered crime against respondent Nos.2 & 3, for above offences. Anticipatory Bail Application bearing No.1834 of 2023 seems to be preferred by respondent Nos.2 & 3, before learned Special Judge under POCSO Act, Ahmednagar. Learned trial Judge, vide dated 04.12.2023, was pleased to allow the anticipatory bail application by imposing conditions.

6. It is emerging that, within 15 days of grant of anticipatory bail, the present application for cancellation of bail is filed i.e. on 19.12.2023. In spite of N.C. on record, neither I.O. nor prosecution seems to have bothered to approach trial court for withdrawal of bail on the ground of conditions being breached. Learned APP did not place anything on record to demonstrate what steps were taken after lodgment of N.C. Some action was expected from prosecution immediately on noting N.C. However, the same does not seem to have taken place. Contents of the N.C. for offence under Sections 504 and 506 are apparently attributed against two

accused for threatening in chorus at the same time. Therefore, taking such aspects into consideration, no case for cancellation of bail being made out, the application is rejected.

[ABHAY S. WAGHWASE, J.]

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