

MHBU040003782014



Order below Exh.23
(Passed on 20/04/2022)

Prosecution has filed present application on behalf of witness Pramilabai Pachpor about cancellation of bail of accused.

2. It is submitted that accused has caused murder of son of applicant and the case is pending for recording of evidence. Present applicant is a main witness. After occurrence of alleged incident, after release on bail, the accused had attempted to kill this witness and to kill her husband who is the informant here for which S.T. No.71/2014 is pending against him for the offence punishable under section 307 and other of IPC.

3. As this matter proceeded further, the witnesses are present and accused is prolonging the matter. On 09/3/2022 he came in front of the house of applicant and she being witness, assaulted her. By catching hold her threw her and tried to assault her with stone on her head. Also assaulted with slaps and fists. She is very old aged and star witness of the matter. If such incident occurred she may lose her life. Therefore, this is only the act of terror committed by accused therefore, claim for cancellation of his bail.

4. After filing of this application say of accused was called and the order is passed on considering the submissions of both sides and as the adjournment was sought by accused side, the accused is taken into interim judicial custody and since then he is in custody.

5. Say is filed at Exh.28 by denying all the alleged offence of incident as alleged in the said application on 09/3/2022. he is released on bail on 27/4/2017 and since then there is no dispute by him. He is the only earning member of his family having wife and two small children. His one child is ill and there is no one to carry the child to hospital. In the said incident for which the case is pending, he is also burnt. On the alleged date of 09/3/2022 he was working in his field therefore no such incident has occurred. Therefore, claimed for rejection of application. At Exh.27 he had given undertaking that he will not enter into the village where the witnesses are residing.

6. Heard arguments at length. It is submitted by prosecution side that already ST No.71/2014 is pending for the offence punishable under section 307 of IPC for assaulting and attempting to kill these witness and her husband who are the main witnesses in this case. On 09/3/2022 also he has assaulted them. So his intention is clear. He has committed breach of bail order. Therefore, prayed for cancellation of his bail.

7. From the side of accused it is submitted that there is no complaint since his release on bail in the year 2014. He has not committed any such act. In other case pending against him for the offence punishable under section 307 of IPC the evidence of this witness is recorded the copy of the same is placed on record.

8. After considering all the submissions, considering nature of offence and allegations against the accused, pendency

of another criminal case for the offence punishable under section 307 of IPC against him indicates his active role for threatening these witnesses as their evidence is to be recorded in this matter. As per record, he is residing in neighbourhood of applicant witnesses. Though he has given undertaking that he will not enter into the village where witnesses are residing, as per his submission in the reply given in the application, his family consisting of wife and small children are residing in the same village in the neighbourhood of the witnesses and moreover, he is earning livelihood by doing agricultural work in the field situated in the said village therefore, mere giving undertaking by him is not sufficient in this matter. The apprehension in the mind of applicant who is a witness seems to be genuine. Therefore, it would be proper to cancel his bail till the period of evidence of star witnesses are recorded. Hence, accordingly following order is passed.

ORDER

1. Application for cancellation of bail is hereby allowed.
2. Accused who is in interim judicial custody is taken into proper judicial custody till the recording of evidence of star and material witnesses.
3. Matter to proceed further.

Date : 20.04.2022

(Smt. P. S. Kale)
Addl. Sessions Judge,
Khamgaon.

Certificate

I certify that this order PDF uploaded is a true and correct copy of original signed order.

Name of Steno : C N Mahale
Name of Court : A.S.J. Khamgaon.
Date of upload: 20.04.2022