



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

919 APPLICATION FOR CANCELLATION OF BAIL NO. 204 OF 2026

RAJKUMAR RANGNATH KUTE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. S. S. Kulkarni, Advocate for the Applicant
Mr. S. B. Jadhav, APP for the Respondent/State

CORAM : R. M. JOSHI, J.

DATED : 7th OCTOBER, 2026

PER COURT :-

1. This application is filed under Section 483(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking cancellation of the pre-arrest bail granted to Respondent Nos. 2 to 20 by the learned Additional Sessions Judge, Basmathnagar, in Bail Application No. 123 of 2026, in connection with Crime No. 107 of 2026 registered with Hatta Police Station, Tq. Basmathnagar, District Hingoli, for the offences punishable under Sections 189(2), 191(2), 221, 223, 285, 303, 324(4), 324(5), 329(3) and 351(3) of the Bharatiya Nyaya Sanhita, 2023.

2. At the outset, the learned APP drew the attention of the Court to the fact that the present Applicant is neither the Informant nor the victim and, as such, has no *locus standi* to take exception to the order granting pre-arrest

bail to the Respondents. In this regard, it is submitted on behalf of the Applicant that, irrespective of fact that applicant is neither the first Informant nor the victim of the crime, he is within his rights to prefer an application seeking cancellation of the bail granted to the accused persons. In support of his submission, learned Advocate for the Applicant placed reliance upon the judgment of the Hon'ble Supreme Court in the case of *Dhanraj N. Asawani v. Amarjeetsingh Mohindersingh Basi and Others* in *Criminal Appeal No. 2093 of 2023, decided on 25.07.2023*. He also referred to the judgment of the Hon'ble Supreme Court in *R. Rathinam v. State and Others, AIR 2000 SC 1851*, wherein practicing Advocates were held to have *locus standi* to move an application for cancellation of bail. A reference is made to the judgments of the Hon'ble Supreme Court in *Jagjeet Singh and Others v. Ashish Mishra and Others, AIR 2022 SC 1918*, and *Amanullah and Others v. State of Bihar and Others, AIR 2016 SC 1871*, to buttress his contention.

3. In alternative, it is his submission that in the capacity of administrator of the village panchayat he has right to prefer the application. On merit, he claims cancellation of bail on the ground that in the facts of the case, no pre-arrest bail could have been granted to the accused. He seeks cancellation thereof on the ground of subsequent conduct of accused persons.

4. At the outset, it is required to be noted that the present Applicant is

neither the Informant nor the victim of the crime. In such circumstances, the question as to whether it would be open for any individual, other than the Informant or the victim (aggrieved party) to invoke the relevant provisions of criminal law and seek cancellation of bail granted to the accused requires determination. In the judgment in the case of *Dhanraj N. Asawani* (supra) in paragraph 19 thereof, the Hon'ble Supreme Court took note of the judgment in *A.R. Antulay v. Ramdas Srinivas Nayak, (1984) 2 SCC 500*, and held that, except in cases where the statute creating an offence provides for the eligibility of a complainant, the concept of *locus standi* of a complainant is not recognized in criminal jurisprudence. The said observations are pertinent in cases where any individual seeks to set the law in motion in respect of an offence which does not prescribe any particular eligibility for the complainant. Applicant herein does not seek setting law into motion and hence, this judgment does not support contention of Counsel for Applicant.

5. Having regard to the aforesaid observations, if the present Applicant was the Informant, nothing would have prevented him from registering the First Information Report in respect of the incident in question. However, the question that arises for consideration is whether it would be open to him to seek cancellation of the bail granted by the competent Court in connection with a crime wherein the Applicant is neither the Informant nor the victim. In

the considered view of this Court, the answer to the said question must be in the negative, more particularly in the facts and circumstances of the present case, wherein no extraordinary circumstances have been brought on record to justify interference at the instance of the present Applicant, which existed in the case of ***R. Rathinam*** (supra). In the backdrop of the fact that six persons belonging to a scheduled caste community were done to death. In the Petition filed by 75 advocates for cancellation of bail, an issue came up for the consideration of High Court about locus standi of a person to challenge order of grant of bail. In the said facts, following observations were made in paragraph 8 of the judgment, which read thus:

“8. It is not disputed before us that the power so vested in the High Court can be invoked either by the State or by any aggrieved party. Nor is it disputed that the said power can be exercised suo motu by the High Court. If so, any members of the public, whether he belongs to any particular profession or otherwise, who has a concern in the matter can move the High Court to remind it of the need to invoke the said power suo motu. There is no barrier either in Sec 439 of the Code or in any other law which inhibits a person from moving the High Court to have such powers exercised suo motu. If the High Court considers that there is no need to cancel the bail for the reasons stated in such petition, after making such considerations it is open for the High Court to dismiss the

petition. If that is the position, it is also open to the High Court to cancel the bail if the High Court feels that the reasons stated in the petition are sufficient enough for doing so. It is, therefore, improper to refuse to look into matter on the premise that such a petition is not maintainable in law.”

6. These observations make it clear that after accepting the position of law with regard to invocation of powers by state or aggrieved party, it is held that the same can also be exercised *suo motu* by the High Court. It is further held that there is no prohibition against a person approaching the High Court for exercise of such power *suo motu*, and it would be for the High Court to consider whether there is a need to cancel the bail or not. These observations, therefore, clearly indicate that, at the instance of a person who is neither the Informant nor the victim, cancellation of bail would not be permissible though in appropriate cases, High Court could be requested to exercise such power *suo motu*.

7. In case of ***Jagjeet Singh and Ors*** (supra) issue before Supreme Court was as to who is victim of crime. Supreme Court in case of ***Amanullah and Ors*** (supra) has made following observations in paragraph 23, which reads thus:

“23. The term ‘locus standi’ is a latin term, the general meaning of which is ‘place of standing’. The Concise Oxford English Dictionary, 10th Edn., at page 834, defines the term ‘locus standi’ as the right or capacity to bring

an action or to appear in a court. The traditional view of 'locus standi' has been that the person who is aggrieved or affected has the standing before the court, i.e., to say he only has a right to move the court for seeking justice. Later, this Court, with justice-oriented approach, relaxed the strict rule with regard to 'locus standi', allowing any person from the society not related to the cause of action to approach the court seeking justice for those who could not approach themselves. Now turning our attention towards the criminal trial, which is conducted, largely, by following the procedure laid down in the CrPC. Since, offence is considered to be a wrong committed against the society, the prosecution against the accused person is launched by the State. It is the duty of the State to get the culprit booked for the offence committed by him. The focal point, here, is that if the State fails in this regard and the party having bonafide connection with the cause of action, who is aggrieved by the order of the court cannot be left at the mercy of the State and without any option to approach the appellate court for seeking justice. In this regard, the Constitution Bench of this Court in the case of **P.S.R. Sadhanantham's** case (supra) has elaborately dealt with the aforesaid fact situation. The relevant paras 13, 14 and 25 of which read thus:

"13. It is true that the strictest vigilance over abuse of the process of the court, especially at the expensively exalted level of the Supreme Court, should be maintained and ordinarily meddlesome bystanders should not be granted "visa". It is also true that in the criminal jurisdiction this strictness applies a fortiori since an adverse verdict from this Court may result in irretrievable injury to life or liberty.

14. Having said this, we must emphasise that we are living in times when many societal pollutants create new problems of unredressed grievance when the State becomes the sole repository for initiation of criminal action. Sometimes, pachydermic indifference of bureaucratic officials, at other times politicisation of higher functionaries may result in refusal to take a case to this Court under Article 136 even though the justice of the lis may well justify it. While "the criminal law should not be used as a weapon in personal vendettas between private individuals", as Lord Shawcross once wrote, in the absence of an independent prosecution authority easily accessible to every citizen, a wider connotation of the expression "standing" is necessary for Article 36 to further its mission. There are jurisdictions in which private individuals — not the State alone — may institute criminal proceedings. The Law Reforms Commission (Australia) in its Discussion

Paper No. 4 on “Access to Courts — I Standing: Public Interest Suits” wrote:

“The general rule, at the present time, is that anyone may commence proceedings and prosecute in the Magistrate court. The argument for retention of that right arises at either end of the spectrum — the great cases and the frequent petty cases. The great cases are those touching Government itself — a Watergate or a Poulson. However independent they may legally be any public official, police or prosecuting authority, must be subject to some government supervision and be dependent on Government funds; its officers will inevitably have personal links with government. They will be part of the ‘establishment’. There may be cases where a decision not to prosecute a case having political ramifications will be seen, rightly or wrongly, as politically motivated. Accepting the possibility of occasional abuse the Commission sees merit in retaining some right of a citizen to ventilate such a matter in the courts.”

Even the English System, as pointed by the Discussion Paper permits a private citizen to file an indictment. In our view the narrow limits set in vintage English Law, into the concept of person aggrieved and “standing” needs liberalisation in our democratic situation. In Dabholkar case this Court imparted such a wider meaning. The American Supreme Court relaxed the restrictive attitude towards “standing” in the famous case of Baker v. Carr. Lord Denning, in the notable case of the Attorney-General of the Gambia v. Pierra Sarr N’jie, spoke thus:

“... the words “person aggrieved” are of wide import and should not be subjected to a restrictive interpretation. They do not include, of course, a mere busybody who is interfering in things which do not concern him;”

Prof. S.A. de Smith takes the same view:

“All developed legal systems have had to face the problem of adjusting conflicts between two aspects of the public interest — the desirability of encouraging individual citizens to participate actively in the enforcement of the law, and the undesirability of encouraging the professional litigant and the meddlesome interloper to invoke the jurisdiction of the courts in matters that do not concern him.”

8.

Prof. H.W.R. Wade strikes a similar note:

“In other words, certiorari is not confined by a narrow conception of locus standi. It contains an element of the actio popularis. This is because it looks beyond the personal rights of the applicant; it is designed to keep the machinery of justice in proper working order by preventing inferior tribunals and public authorities from abusing their powers.”

In Dabholkar case, one of us wrote in his separate opinion:

“The possible apprehension that widening legal standing with a public connotation may unloose a flood of litigation which may overwhelm the Judges is misplaced because public resort to court to suppress public mischief is a tribute to the justice system.”

This view is echoed by the Australian Law Reforms Commission.

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25. In India also, the criminal law envisages the State as a prosecutor. Under the Code of Criminal Procedure, the machinery of the State is set in motion on information received by the police or on a complaint filed by a private person before a Magistrate. If the case proceeds to trial and the accused is acquitted, the right to appeal against the acquittal is closely circumscribed. Under the Code of Criminal Procedure, 1898, the State was entitled to appeal to the High Court, and the complainant could do so only if granted special leave to appeal by the High Court. The right of appeal was not given to other interested persons. Under the Code of Criminal Procedure 1973, the right of appeal vested in the States has now been made subject to leave being granted to the State by the High Court. The complainant continues to be subject to the prerequisite condition that he must obtain special leave to appeal. The fetters so imposed on the right to appeal are prompted by the reluctance to expose a person, who has been acquitted by a competent court of a criminal charge, to the anxiety and tension of a further examination of the case, even though it is held by a superior court. The Law Commission of India gave anxious thought to this matter, and while noting that the Code recognised a few exceptions by way of permitting a person aggrieved to initiate proceedings in certain cases and permitting the complainant to appeal against an acquittal with special leave of the High Court, expressed itself against the general desirability to encourage appeals against acquittal. It referred to the common law

jurisprudence obtaining in England and other countries where a limited right of appeal against acquittal was vested in the State and where the emphasis rested on the need to decide a point of law of general importance in the interests of the general administration and proper development of the criminal law. But simultaneously the Law Commission also noted that if the right to appeal against acquittal was retained and extended to a complainant the law should logically cover also cases not instituted on complaint. It observed:

“Extreme cases of manifest injustice, where the Government fails to act, and the party aggrieved has a strong feeling that the matter requires further consideration, should not, in our view, be left to the mercy of the Government. To inspire and maintain confidence in the administration of justice, the limited right of appeal with leave given to a private party should be retained, and should embrace cases initiated on private complaint or otherwise at the instance of an aggrieved person.”

However, when the Criminal Procedure Code, 1973 was enacted the statute, as we have seen, confined the right to appeal, in the case of private parties to a complainant. This is, as it were, a material indication of the policy of the law.”

(emphasis supplied by this Court)

9. No doubt, the right to set the law in motion is permissible to be exercised by any individual unless there is a specific embargo under the statute, however, the same cannot be equated with a right to seek cancellation of bail once bail has been granted by the competent Court. For that purpose, the individual needs to pass test to be a victim of crime. It cannot be accepted that any individual would be allowed to challenge order of bail granted to an accused without any control. Our experience tells us that even provisions of law are often misused by unscrupulous persons and if any right is recognized of any individual to seek cancellation of bail irrespective of the facts and

circumstances of the case, it would open a Pandora's box and encourage the filing of applications for cancellation of bail even with an ulterior motive to pressurize the person in whose favour bail has been granted to achieve personal gains. This Court, therefore, is not in agreement with the contention of the learned Advocate that any individual could be permitted to move an application for cancellation of bail even if he is not victim or aggrieved person.

10. As far as the present case is concerned, the Applicant claims to be the Administrator of the Village Panchayat. He seeks cancellation of bail not only on merits but also on the ground of the subsequent conduct of the accused persons. According to him, they are not entitled to continue to enjoy the benefit of pre-arrest bail granted in their favour. Perusal of the record, and more particularly, the First Information Report and the order passed by the learned Additional Sessions Judge granting pre-arrest bail to the Respondents, clearly indicates that this is a fit case wherein pre-arrest bail ought to have been granted by Court. There is nothing on record to indicate that there has been any breach of the conditions imposed by the said Court while granting bail to the accused persons. This Court, therefore, is of the view that the present application is not *bona fide* and the same deserves to be dismissed.

11. At this stage, learned Advocate for the Applicant makes a voluntary

statement that the Applicant is ready and willing to deposit an amount of Rs.5,000/- with the High Court Legal Services Authority, Sub-Committee, Aurangabad.

12. In view of the voluntary statement made by the learned Advocate for the Applicant, this Court finds no reason to pass any further order. The Applicant is, however, directed to deposit the said amount within a period of four weeks from today. It is clarified that the amount shall not be paid from government treasury but individually by applicant.

13. The application stands dismissed in the above terms.

(R. M. JOSHI, J.)

ssp