

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 22 OF 2015

MR. SHANTANU KUMAR, PRESENTLY
JUDICIAL CUSTODY, SUB JAIL SADA,
VASCO, GOA.

... Petitioner

Versus

STATE OF GOA, AS REPRESENTED BY
OFFICER IN CHARGE, ANJUNA POLICE
STATION AND ANR.,

... Respondents

Mr. Satish S. Saudagar, Advocate for the petitioner.

Mr. M. Amonkar, Additional Public Prosecutor for the respondent -
State.

Coram:- C. V. BHADANG, J.

Date:- 17th March, 2015

P.C.:

Heard Mr. Saudagar, learned Counsel appearing on behalf of the
the applicant and Mr. Amonkar, learned Additional Public
Prosecutor for the respondent - State.

2. The applicant takes exception to the order dated 29/01/2015
passed by the President, Children's Court at Panaji whereby the bail
granted to the present applicant who is the original accused no.6 has
been cancelled for breach of conditions.

3. The brief facts are that the present applicant along with six others
is facing prosecution under various sections before the Children's
Court. It appears that the applicant was granted bail on 14/08/2014

and accordingly the applicant has furnished the surety and he was released on bail. It appears that on 12/09/2014, the applicant-accused filed an application for permission to leave the State of Goa, in as much as, one of the conditions for bail, was that the applicant shall not leave the State of Goa without prior permission of Court. That application was granted and the applicant was permitted to leave State of Goa on furnishing a additional surety of Rs.10,000/-. The applicant is a resident of State of Orissa. It is the case of the prosecution that the applicant in breach of the said condition left the State of Goa without furnishing additional surety. It further appears that the initial surety of the applicant was noticed and he sought time to secure the presence of the applicant. Notices were also issued to the applicant at his native place, it is pointed out that in so far as the present applicant is concerned the notice was served on his father. Be that as it may, the applicant suo moto remained present before the Children's Court on 06/01/2015 and filed an application for reduction of additional surety from Rs.10,000/- to Rs.5,000/-. The President of the Children's Court heard the matter and by an order dated 29/01/2015 refused to reduce sureties and the bail came to be cancelled. Feeling aggrieved the applicant has filed this Criminal Revision Application.

4. It is submitted on behalf of the applicant that there was no notice issued asking the applicant to show cause why his bail should not be cancelled. It is submitted that there was no application from the State

either for cancellation of bail and in that view of the matter the Trial Court was not justified in cancelling the bail which was granted earlier to the applicant. The learned Counsel for the applicant placed reliance on an unreported decision of this Court in the Criminal Misc. Application No. 72 of 2003 in the case of "Mr. Thomas Fernades V/s. State of Goa and another" dated 19th June, 2003, in order to submit that in such a case, it is mandatory to issue a notice.

5. Shri Amonkar, learned Additional Public Prosecutor appearing on behalf of the respondent- State has supported the impugned order. It is submitted that the applicant in disregard of the order passed, had gone out of the State of Goa. The matter is pending at the stage of framing charge and the Children's Court was well justified in such circumstances cancelling the bail.

6. On hearing the learned Counsel appearing for the parties, it appears that there was no formal application filed by the State for cancellation of bail. I would hasten to add that undoubtedly the Court, in given circumstances is not precluded in proceeding to cancel the bail suo moto. However, in that case the applicant would have to be put to notice and heard on the point of cancellation, which is not forthcoming in this case.

7. In such circumstances, it would be appropriate to remit the matter back to the Children's Court for deciding the issue of cancellation

afresh.

8. In the result, the Criminal Revision Application is allowed. The impugned order of Cancellation of bail is quashed and set aside and the matter is remitted to the learned Children's Court, for deciding the issue of cancellation of bail afresh in accordance with law. The parties to appear before the Children's Court on 26/03/2015 at 10.00 a.m.

9. Criminal Application is disposed of in the aforesaid terms.

10. Parties to act upon duly authenticated copy of this order.

C. V. BHADANG, J.

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