

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1579 OF 2016**

Dhanashree Abhay Sakhale @	
Dhanashree Ramchandra Gurav	...Petitioner
Versus	
The State of Maharashtra & Anr.	...Respondents

Ms. Rajashree R. Gurav for the Petitioner

Mr. S. R. Agarkar, A.P.P for the Respondent No.1-State

Mr. Vaibhav G. Bagade for the Respondent No. 2

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 17th NOVEMBER, 2016

P.C. :

1. Heard learned Counsel for the parties.

2. By this petition, the petitioner has impugned the order dated 6th April, 2016 passed by the learned Sessions Judge, City Civil Court, Greater Bombay, by which, the application preferred by the prosecution (Exhibit 36) in Miscellaneous Application for cancellation of bail, came to be rejected.

3. It appears that the prosecution had filed an application seeking cancellation of bail of the respondent No. 2 (original accused) and original accused No. 3. The ground for seeking cancellation of bail of the respondent No. 2, was the false statement made by the said respondent with regard to his address and on several other grounds. In the said application, allegations have been made that the respondent No. 2 was misleading the Court by giving false addresses to the Court. In the said application seeking cancellation of bail, the prosecution filed an application, being Exhibit 36 and sought a direction from the Court, to the Deputy Commissioner of Police ('DCP'), Zone-6 to provide CDR and Tower Location of the respondent No. 2 from 18th June, 2013 till 10th February, 2016. It is stated in the said application, that the said CDR and Tower Location will reveal how that the respondent No. 2 had misled the Court, inasmuch as, he had never resided at the address furnished to the Court and had infact suppressed the address where he was actually residing. It is also mentioned that the Office of the DCP, Zone-6 had orally intimated that on Court's direction, the said CDR and Tower Location would be furnished within 24 hours.

4. The said application was resisted by the respondent No. 2 (original accused). The learned Judge, after hearing the parties, was pleased to reject the said application being Exhibit 36 vide order dated 6th April, 2016, which has been impugned in the present petition.

5. Learned Counsel for the original complainant states that the learned Judge had erred in not allowing the said application, preferred by the prosecution, as the CDR records and tower locations would clearly reveal that the respondent No. 2 had suppressed the correct address from the Court and as such the said record was germane to the application seeking cancellation of bail. She submitted that in the interest of justice, the impugned order be quashed and set-aside and a direction be given to the DCP, Zone-6 to produce the CDR records and tower locations of the respondent No. 2 from 18th June, 2013 till 10th February, 2016.

6. Learned Counsel for the respondent No. 2 (original accused) opposed the said petition. He submitted that there is no infirmity in the order and that, if a direction is given to produce the CDR records, the same

would infringe the right of privacy of the respondent No. 2. He submitted that in any event, the CDR records are not conclusive evidence.

7. Learned A.P.P supported the petitioner. He submitted that the police are ready to furnish CDR records and tower locations of the respondent No. 2, if such a direction is given.

8. Perused the papers. It appears that an application seeking cancellation of the respondent No.2's bail was filed by the prosecution on 1st December, 2015. The application seeking cancellation is essentially on the ground that the respondent No. 2 had practiced fraud on the Court by furnishing the incorrect address. According to the prosecution, the CDR records and tower locations would reveal the said fact. It also appears that the office of the DCP, Zone-6, Mumbai, then, and even today, are ready to produce the CDR records and tower locations, provided a direction is given to produce the same. The respondent No. 2 is an accused and cannot seek, as a matter of right, in the peculiar facts of this case, right of privacy, more particularly, when the allegations are that he suppressed his correct address from the Court and gave a false address.

9. Considering the aforesaid, the petition is allowed. The impugned order dated 6th April, 2016 passed below Exhibit 36, by the Additional Sessions Judge, City Civil & Sessions Court, Greater Mumbai, is quashed and set-aside. The DCP, Zone-6, Mumbai, is directed to provide the CDR and Tower Location of the respondent No. 2 from 18th June, 2013 to 10th February, 2016. If the said records are not with the DCP, Zone-6, he will take appropriate steps to procure the same from the concerned Service Providers. The CDR records and tower location for the said period to be placed at the earliest before the trial Court and preferably, within six weeks from today.

10. It is made clear that the learned Judge shall decide the application seeking cancellation of the respondent No.2's bail on its own merits, uninfluenced by the aforesaid directions.

11. Petition is disposed of accordingly.

12. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.