

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION No. 203 of 2016

Sudhir Netaji Jagtap ..Applicant.
Vs
State of Maharashtra & Anr ..Respondents.

Mr. Sharad T. Bhosale, Advocates for the applicant.
Mr. N.B. Patil, APP for the State.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATE : 26TH SEPTEMBER, 2018**

P.C:-

- 1) This is an application for cancellation of bail granted to the respondent no.2 by the learned additional Sessions Judge, Pune vide order dated 9/2/2016 in Criminal Application No.328 of 2016 and Cri.B.A.No.319 of 2016 vide order dated 22/2/2016.
- 2) Heard Mr. Bhosale, learned counsel for the applicant, and Mr. N.B. Patil, learned APP for the State. Perused the records and considered the submissions advanced by the learned Counsels for the respective parties.
- 3) Record prima facie reveals that pursuant to the first information report lodged by the applicant herein Crime No. 23 of 2016 was registered against respondent No. 2 to 4 for offence under sections 420, 467, 468, 471, 420 read with section 34 of the

IPC. While granting bail, learned Additional Sessions Judge has considered the fact that there is longstanding dispute between the applicant/first informant who is Head Master of Matimand Niwasi Shala, Agalgaon and respondent No. 2 to 4 were teachers of the said school. The respondents were terminated from service on the ground of absenteeism. The termination was challenged by way of appeals before the Divisional Deputy Commissioner, Social Welfare Officer, Pune Division, Swargate Pune and the said appeals were allowed. The applicant had challenged the said order of the Divisional Deputy Commissioner before the High Court and the High Court dismissed the writ petition and directed Management to pay 50% backwages. The learned Additional Sessions Judge has considered this background while deciding the bail application filed by Respondent No. 2 to 4. The applicant had alleged that respondent No. 2 to 4 had committed forgery of the document which was filed before the Appellate Authority i.e. Divisional Deputy Commissioner, Social Welfare Officer, Pune Division, Swargate Pune and thereby cheated the Sanstha. The learned Additional Sessions Judge had rightly held that no finding could be rendered on the said issue at the stage of deciding the

application. The learned Judge has also held that nature of allegations levelled against the respondents did not justify the custodial interrogation.

4) It is alleged that the learned Sessions Judge has erred in holding that there is no prima facie material to show the involvement of the respondents in committing the alleged crime. The bail is sought to be cancelled mainly on the ground that the order is illegal.

5) It may be mentioned that parameters for cancellation of bail are different from the grounds to be considered while deciding the bail application. A bail once granted can be cancelled only on cogent and overwhelming circumstances. In the case of *Dolat Ram Vs. State of Haryana* (1995) 1 SCC 349, the Hon'ble Apex Court has held ---

“Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of Justice or evasion or attempt to evade the due course of justice or abuse of the concession

granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non-bailable case in the first instance and the cancellation of bail already granted.”

6) In the instant case, the respondent/accused have not misused the liberty or attempted to intervene with the due course of administration of justice. There are no supervening circumstances to justify cancellation of bail. On the factual matrix, the order of bail is neither perverse, illegal, unjustified or based on irrelevant material.

7) For the reasons stated above, the applicant has not made out a case for cancellation of bail. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)