

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 1009 of 2021**

Dwarika Prasad Chandra, S/o Fandu Ram Chandra, aged about 45 years, R/o Village Chhote Rabeli, Post-Bade Rabeli, tehsil – Malkharoda, Distt. - Janjgir-Champa (C.G.)
(Complainant)

---- Applicant**Versus**

1. Kavita Bai, W/o Chhatram, aged about 22 years, caste-Satnami, R/o Village Chhoterabeli, P.S. Malkharoda, Dist.- Janjgir-Champa (C.G.) **(Accused)**
2. State of C.G. through the District Magistrate, Dist.- Janjgir-Champa (C.G.)

----Respondents**Cr.M.P. No. 1013 of 2021**

Dwarika Prasad Chandra, S/o Fandu Ram Chandra, aged about 45 years, R/o Village Chhote Rabeli, Post-Bade Rabeli, tehsil – Malkharoda, Distt. - Janjgir-Champa (C.G.)
(Complainant)

---- Applicant**Versus**

1. Chhatram, S/o Paltan, aged about 37 years, caste-Satnami, R/o Village Chhote Rabeli, P.S. Malkharoda, Dist. - Janjgir-Champa, C.G. **(Accused)**
2. State of C.G. through the District Magistrate, Dist.- Janjgir-Champa (C.G.)

----Respondents**Cr.M.P. No. 1016 of 2021**

Dwarika Prasad Chandra, S/o Fandu Ram Chandra, aged about 45 years, R/o Village Chhote Rabeli, Post-Bade Rabeli, tehsil – Malkharoda, Distt. - Janjgir-Champa (C.G.)
(Complainant)

---- Applicant**Versus**

1. Mantora Bai, W/o Radheshyam, aged about 40 years, caste-Satnami, R/o Village Bandora, P.S. Malkharoda, Out Post Adbhar, Dist. - Janjgir-Champa (C.G.) **(Accused)**

2. State of C.G. through the District Magistrate, Dist.- Janjgir-Champa (C.G.)

----Respondents

For Petitioner	:	Mr. Yogesh Kumar Chandra, Advocate.
For Respondent No. 1	:	Mr. Vimal Kumar Tonde, Advocate.
For Respondent No. 2	:	Mr. Gagan Tiwari, Deputy Govt. Advocate.

Hon'ble Mr. Justice N.K. Chandravanshi

Order On Board

10-12-2021

Heard on admission.

(1) As these Cr.M.Ps arise out of same crime number of same police Station and common order dated 30.6.2021 passed in M.Cr.C. No. 2496 of 2021, M.Cr.C. No. 2518 of 2021 & M.Cr.C. No. 2616 of 2021, respectively, they are being heard together and disposed of by this common order.

(2) These criminal miscellaneous petitions have been preferred by the petitioner/complainant for cancellation of bail granted to respondents/accused, who are applicants No. 1 in M.Cr.C. No. 2496 of 2021, M.Cr.C. No. 2518 of 2021 & M.Cr.C. No. 2616 of 2021, respectively, vide order dated 30.6.2021 passed by this Court in aforesaid MCRCs.

(3) Learned counsel appearing for the petitioner/complainant would submit that on the basis of FIR lodged by the petitioner/complainant, Crime No. 403/2020 was registered against accused persons namely Chhatram, Loknath, Kavita Bai & Mantora Bai at Police Station Malkharoda, Distt. Janjgir-Champa for commission of offence punishable under Sections 294, 323, 342 & 392/34 of the IPC. In that case, respondent

No. 1/accused persons in all these petitions were enlarged on regular bail by this Court vide order dated 30.6.2021 passed in M.Cr.C. No. 2496 of 2021, M.Cr.C. No. 2518 of 2021 & M.Cr.C. No. 2616 of 2021, respectively with the conditions that : (i) they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court; (ii) they shall not act in any manner which will be prejudicial to fair and expeditious trial; and (iii) they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial. But respondent No. 1/accused persons in all these petitions have not abide aforesaid conditions imposed by this Court because they again committed *marpeet*, abused in filthy language and threatened to kill the petitioner's (Dwarika Prasad Chandra) brothers namely Premlal Khunte & Narayan Khunte, hence, on the report lodged by Ramesh Kumar Khunte, Crime No. 0242 / 2021 has been registered against respondents /accused persons namely Paltan, Chhatram, Mantora Bai & Kavita for commission of offence punishable under Sections 294, 323, 506 & 34 of the IPC at Police Station Malkharoda, District Janjgir-Champa. Lastly, he would submit that since respondent No. 1/accused persons have breached the conditions imposed by this Court while granting aforesaid bail applications, therefore, bail granted to them vide order dated 30.6.2021 passed in aforesaid MCRCs are liable to be cancelled.

(4) Learned counsel for respondent No. 1/accused persons would submit that there is previous enmity between the parties, therefore, the petitioner/complainant had not only lodged previous complaint (Crime No. 403/2020) on baseless and frivolous grounds but when respondent No. 1 and his/her family members were enlarged on bail by this Court, thereafter, he (petitioner) again lodged FIR through his associates, which was registered as Crime No. 0242 / 2021 at Police Stated Malkharouda, only on false and baseless

grounds. This fact is clearly proved by false statement made by petitioner/complainant in his petitions that Ramesh Kumar Khunte (complainant in Crime No. 0242 of 2021), Premlal Khunte and Narayan Khunte are his brothers whereas they belonged to different caste. He would further submit that both the alleged crime are not only false & frivolous but both have altogether distinct crime, that too, no such condition was imposed by this Court while granting bail to respondent No. 1/accused persons in the aforesaid MCRCs, therefore, there is no breach of any condition imposed by the Court while granting bail to the respondent No. 1/accused persons, hence present CRMPs are liable to be dismissed at the admission stage itself.

(5) Learned counsel for the State/respondent No. 2 would submit that State is formal party in these cases.

(6) Considered the submissions made by learned counsel for both the parties and perused the material available on record.

(7) Perusal of bail order passed by this Court on 30.6.2021 and also the copy of FIR lodged by Ramesh Kumar Khunte, which was registered as Crime No. 0242/2021, it is quite clear that both the crimes i.e. Crime Nos. 403 of 2020 & 0242 of 2021 had been registered in different year i.e. 2020 & 2021, that too, no such condition was imposed upon respondent No. 1/accused persons in all the aforesaid MCRCs that if they again indulge in any crime, then, their bail applications would be cancelled.

(8) Three judges bench of Hon'ble Supreme Court in **State (Delhi Administration) v. Sanjay Gandhi** reported in **1978 (2) SCC 411** has made the following elemental distinction in defining the nature of exercise while cancelling bail that rejection of bail when bail is applied for is one thing; cancellation of bail already granted is quite another.

It is easier to reject a bail application in a non-bailable case than to cancel a bail granted in such a case. Cancellation of bail necessarily involves the review of a decision already made and can by and large be permitted only if, by reason of supervening circumstances, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during the trial.

(9) Again, in the matter of **Ramcharan v. State of Madhya Pradesh** reported in **2004 (13) SCC 617**, their Lordships of the Supreme Court held that order of bail can be cancelled on existence of cogent and overwhelming circumstances but not on reappraisal of facts of the case.

(10) The petitioner/complainant has not brought any compelling facts, which could be considered just & proper to take a view for cancelling the bail granted to respondent No. 1/accused persons.

(11) In view of the principle of law laid down by the Supreme Court in the afore-cited judgments i.e. **State (Delhi Administration)** (supra) & **Ramcharan** (supra), I am of the view that the present CrMPs have no substance, hence, the same are liable to be dismissed.

(12) Consequently, the Cr.M.Ps., being devoid of substance, are hereby dismissed at the admission stage itself.

Sd/-
(N.K.Chandravanshi)
Judge

D/-

D/-

