

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

CRIMINAL APPLICATION NO.361 OF 2017

Anand Bhaskar Upasani ...Applicant
Versus
Yogesh Dhirajlal Vora ...Respondent

**WITH
CRIMINAL APPLICATION NO.362 OF 2017**

Anand Bhaskar Upasani ...Applicant
Versus
Smt. Varsha Dilip Badlani and Anr. ...Respondents

**WITH
CRIMINAL APPLICATION NO.363 OF 2017**

Anand Bhaskar Upasani ...Applicant
Versus
Tejas Velji Lodaya and Anr. ...Respondents

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Mr. K.M. Sangavi for the Applicant in all the applications.
Mr. Vedchetan Patil for Respondent No.1 in Appln/361 and 362/2017
Mr. S.V. Gavand APP for the Respondent No.2-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 13th OCTOBER, 2021.

P.C.:-

. The Applicant, the original complainant, has filed these applications under Section 439(2) of the Code of Criminal Procedure, 1973 for cancellation of bail granted to Respondents in Crime No.427 of 2015 registered with Mulund Police Station for offences punishable under Sections 420, 465, 467, 468 and 471 r/w 34 of the IPC.

2. Heard Mr. Sangavi, learned counsel for the Applicant, Mr. Vedchetan Patil, learned counsel for Respondent No.1 and Mr. S.V. Gavand, learned APP for the State.

3. The aforesaid crime was registered against these Respondents and the other co-accused pursuant to the FIR lodged by the Applicant, who at the relevant time was a Senior Manager of Kapole Co-operative Bank. The Applicant had alleged that the co-accused Damayanti Velji Lodaya, who is the owner of the Firm M/s. Transindia Roadlinks had obtained a loan from the Kapole Co-operative Bank for purchasing 34 Trailers. Registration book and insurance papers of these Trailers were submitted to the Bank. The Bank subsequently found that the Trailers purchased by the firm were in fact registered in the names of different persons. The security furnished by Damayanti was also found to be owned by some other person.

4. Respondent No.1 in Criminal Application No.363/2017 is the son of the co-accused – Damayanti. He was arrested in the said crime on 13/06/2016. Since the charge sheet was not filed within the stipulated period of 90 days, he was released under Section 167(2) of the Cr.P.C. The statutory bail granted to the Respondents cannot be cancelled on the ground that charge sheet has been subsequently filed.

He has not misused the liberty and/or violated the conditions of bail. Hence, no case is made out for cancellation of statutory bail granted to Respondent No.1 in Criminal Application No.363/2017.

5. It is to be noted that State had also filed applications being Criminal Application Nos.397 of 2018 and 399 of 2018 for cancellation of bail granted to Yogesh Vora and Varsha Badlani who are the Respondent No.1 in Criminal Application Nos.361 of 2017 and 362 of 2017. The said applications have been dismissed by this Court (Coram: Prakash D. Naik, J.) by order dated 15/09/2021. While rejecting the said applications, this Court has observed that said Yogesh Vora was thoroughly interrogated. His statement was recorded and that allegation attributed to him was only of negligence while giving sanction of a huge amount. It was further observed that entire case is based on documents which are already in possession of the investigating agency. Similarly, it is observed that none of the witnesses have attributed any role to the Respondent-Varsha Badlani. Her name does not appear in the FIR and the charge sheet. She had appeared before the investigating Officer as and when called and her statement is also recorded. It is stated that the allegations attributed to Yogesh Vora and Varsha Badlani, the Respondents in respective criminal applications is only of negligence & that there is no prima facie

material that they have committed any intentional acts. It is also observed that the orders of bail are not perverse.

6. In view of the findings recorded by the Co-ordinate Bench of this Court and considering the fact that the Respondents who are on bail have not misused the liberty, no grounds are made out for cancellation of bail. Hence, the Criminal Applications are dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)