

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO.109 OF 2022

PRADEEP SHATRUGHAN TANDALE
VERSUS
MANISHA W/O. DEVIDAS TAWAR AND OTHERS

...
Advocate for Applicants : Mr. Sandeep D. Munde
APP for Respondent No.3 : Mr. A. A. Jagatkar
...

CORAM : S. G. MEHARE, J.

DATE : 19-07-2022

PER COURT :-

1. Heard the learned counsel for the applicant and learned APP for the respondent No.3 / State.

2. It has been argued that the learned Sessions Court did not consider the material on record while granting anticipatory bail to the respondents-accused. However, during the course of deliberation, he would submit that he has submitted new material to the Investigating Officer after the Sessions Court granting anticipatory bail to the respondents/accused.

3. The law has been settled in the case of, ***Puran, Shekhar and another Vs Rambilas and another, AIR 2001 SC 2023.***

Referring to the case ***Gurcharan Singh vs. State (Delhi***

Admn.) reported in AIR 1978 SC 179, in paragraph No. 16 of the said judgment has been extracted as follows.

"If, however, a Court of Session had admitted an accused person to bail, the State has two options. It may move the Sessions Judge if certain new circumstances have arisen which were not earlier known to the State and necessarily, therefore, to that Court. The State may as well approach the High Court being the superior Court under Section 439 (2) to commit the accused to custody. When, however, the State is aggrieved by the order of the Sessions Judge granting bail and there are no new circumstances that have cropped up except those already existed, it is futile for the State to move the Sessions Judge again and it is competent in law to move the High Court for cancellation of the bail. This position follows from the subordinate position of the Court of Session vis-a-vis the High Court."

4. The Honourable Apex Court in **Gurcharan Singh** (*supra*) has laid down a law that the circumstances in which the State has to approach the Sessions Court and the High Court. Learned counsel for the applicant/first informant has stated that some new material has come to the light and it was supplied to the Investigating Officer after the respondents were admitted to bail. In the light of this fact, this court is of the view that the first informant / applicant has approached to the wrong court. The applicant has liberty to approach to the appropriate Court. Hence, the application stands dismissed.

**(S. G. MEHARE)
JUDGE**