

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

CRIMINAL APPLICATION NO. 86 OF 2022

Smt. Mai Laxmi Thale Applicant
v/s.
The State of Maharashtra and ors. Respondents

Mr. Mahendra T. Bhingardive for the Applicant.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 25th MARCH, 2022.

P. C. :-

. This is an Application under section 439(2) of Cr.P.C. filed by the aforesaid Applicant for cancellation of bail granted by order dated 20/01/2022 by the learned Additional Sessions Judge, Panvel in Criminal Bail Application No.04/2022.

2. Heard Mr. Mahendra Bhingardive, learned counsel for the Applicant. He submits that the learned Judge has not taken into consideration the documents and other material while granting bail. He submits that the order is perverse and needs to be cancelled.

3. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant.

4. At the outset, it may be mentioned that bail cannot be cancelled in a casual or mechanical manner. It is well settled that parameters for grant of bail are entirely different from cancellation of bail. In ***Myakala Dharmarajam and ors. v/s. The State of Telangana and anr. (2020) 2 SCC 743***, the Apex Court has observed thus :-

“ 6. The factors to be considered while granting bail have been held by this Court to be the gravity of the crime, the character of the evidence, position and status of the accused with reference to the victim and witnesses, the likelihood of the accused fleeing from justice and repeating the offence, the possibility of his tampering with the evidence and witnesses, and obstructing the course of justice etc. Each criminal case presents its own peculiar factual scenario and, therefore, certain grounds peculiar to a particular case may have to be taken into account by the Court. The court has to only opine as to whether there is prima facie case against the accused. For the purpose of bail, the Court must not undertake meticulous examination of the evidence collected by the police and comment on the same.

7. In Raghbir Singh v. State of Bihar this Court held that bail can be cancelled where (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation, (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation, (v) there

is likelihood of his fleeing to another country, (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency, (vii) attempts to place himself beyond the reach of his surety, etc. The above grounds are illustrative and not exhaustive. It must also be remembered that rejection of bail stands on one footing but cancellation of bail is a harsh order because it interferes with the liberty of the individual and hence it must not be lightly resorted to.

8. It is trite law that cancellation of bail can be done in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant material indicating prima facie involvement of the accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in canceling the bail. ”

5. The records in the present case indicate that the son of the Applicant has committed suicide. It is the case of the Applicant that the Respondent Nos.2 to 6 had accused her son of having illicit relationship with another lady and that they had entered the house of the deceased and abused and defamed him. Disturbed and humiliated by the said incident, the son of the Applicant committed suicide. In my considered view, the allegations would not prima facie constitute abetment within the meaning of Section 107 of the Indian Penal Code. Hence, the bail

order cannot be considered as perverse.

6. Under the circumstances, no case is made out for cancellation of bail. Hence, the Application is dismissed.

**PREETI
H JAYANI**

(SMT. ANUJA PRABHUDESSAI, J.)

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