

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

WRIT PETITION NO. 734 OF 2022

Faizanul Inamul Haque Shamshi	 Petitioner
v/s.	
The State of Maharashtra and anr.	 Respondents

Mr. Induprakash Tripathi i/b. C.K. Tripathi a/w.
Bhagyashri Gawas for the Applicant.
Ms. A.A. Takalkar, APP for the State.
Mr. Nandkumar Gulabrao Shinde, PSI, Sir. J.J. Marg Police Station.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 07th APRIL, 2022.

P. C. :-

. The Petitioner herein has challenged the order dated 01/03/2022 by which the learned Addl. Sessions Judge, City Civil Court, Greater Mumbai has cancelled bail granted to the Petitioner vide order dated 22/09/2020 in Bail Application No.6900316/2020.

2. Mr. Induprakash Tripathi, learned counsel for the Petitioner submits that the Petitioner is facing trial for offences which are bailable. He submits that the learned Sessions Judge has cancelled the bail even though it was brought to the notice of the learned Judge that the Petitioner was charged only with bailable offences.

3. Learned APP concedes that though the FIR was registered for offences under sections 454, 457, 380, 447, 448, 427 and 506 of the Indian Penal Code, the charge sheet was filed only in respect of the offences under sections 447, 448, 427 and 506 of the Indian Penal Code, which are bailable offences.

4. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. The records reveal that pursuant to the FIR lodged by Abdul Rehman Mohammed Bapu, C.R. No.183 of 2020 was registered against the Petitioner for offences under Sections 454, 457, 380, 447, 448, 427 and 506 of the Indian Penal Code. Upon completion of the investigation, charge sheet came to be filed for offences punishable under Sections 447, 448, 427 and 506 of the IPC. There is no dispute that these offences are bailable. Hence, in exercise of powers under Section 436 of Cr.P.C., the learned Magistrate enlarged the Petitioner on bail. Learned Sessions Judge, while castigating the Magistrate for passing a cryptic order lost sight of the fact that bail in a bailable offence is an absolute and indispensable right. It was not the case that the Petitioner had violated bail condition. Under the circumstances,

learned Judge was not at all justified in cancelling his bail. The order is perverse and reflects total non-application of mind and hence cannot be sustained. Hence, the following order :-

(a) The Petitioner is ordered to be released on bail on furnishing bail bonds in the sum of Rs.20,000/- with one or two sureties in the like amount.

(b) The Petitioner shall appear before the Trial Court as and when required unless his appearance is dispensed with ;

(c) The Petitioner shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted ;

(d) The Petitioner shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.

6. Writ Petition stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)