

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.222 OF 2022

Yash Himanshu Shah .. Applicant

Versus

The State of Maharashtra & Anr. .. Respondents

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Mr.Tejas V. Dhotre for the Applicant.

Ms.Veera Shinde, A.P.P. for the State/Respondent.

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CORAM: BHARATI DANGRE, J.
DATED : 06th JULY, 2022

P.C:-

1. By the present application, the applicant seeks cancellation of bail granted to the applicant/accused by the City Sessions Court, Gr.Mumbai on 06/08/2019, vide Anticipatory Bail Application No.1047 of 2019.

2. Heard the learned counsel for the applicant.

3. The applicant/accused was released on bail on 06/08/2019, by recording that the custodial interrogation is not necessary as the case is based on documentary evidence and moreover, dispute between the parties is civil in nature and the informant has already filed Commercial Summary Suit

No.366 of 2019 for recovery of amount alongwith *pendente-lite* and future interest. The same accusations are levelled in the F.I.R., since there is a dispute about the said amount.

4. The E.O.W. made an attempt to cancel the bail, by taking out Misc. Application No.315 of 2020 before the Sessions Court, but was unsuccessful. On 23/11/2021, the learned Judge by applying the parameters laid down by the Hon'ble Supreme Court in *Dolat Ram Vs. State of Haryana (1995 SCC(1) 349)*, as to when the power of cancellation of bail can be exercised, arrived at the conclusion that no cogent and overwhelming circumstances are brought on record, which would warrant cancellation of bail granted to the accused. Not only this, but the learned Judge has further observed and in my considered opinion rightly so, that it appears that the informant is attempting to recover money by using the police machinery, which is not permitted. The application filed by the E.O.W. was thus rejected.

The complainant, cannot be placed better than the prosecution and his application stand rejected, as no overwhelming circumstances are made out.

(SMT. BHARATI DANGRE, J.)