

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.401 OF 2019**

Pratibha Suresh Chandak .. Applicant

Versus

The State of Maharashtra & Anr. .. Respondents

...

Ms.Supriya Kak for the Applicant.

Mr.S.H.Yadav, A.P.P. for the State/Respondent.

...

CORAM: BHARATI DANGRE, J.

DATED : 13th JUNE, 2022

P.C:-

1. By the present application, the anticipatory bail granted to the accused-Suresh Hiralal Shah by the Additional Sessions Judge on 24/10/2019 is sought to be cancelled.

2. The ground on which the cancellation of anticipatory bail is sought is to the effect that the learned Judge has not considered the parameters for release of the accused on bail in anticipation of arrest.

3. Heard the learned counsel for the applicant and perused the application. Undisputedly, the learned Judge has erred in recording that, "there is no need to keep the applicant behind

bar". However, if the operative portion of the order is perused, the learned Judge has released the applicant in the event of his arrest in connection with the subject C.R. and imposed the conditions, which are applicable while releasing the applicant on bail under Section 438 of the Cr.P.C.

4. The ground available for cancellation of bail being limited, when the bail is granted on untenable ground, a serious discrepancy found in the order, thereby causing prejudice to justice and when there is a breach of the conditions subject to which the bail was granted.

The first ground require to bring on record the perversity in the order when it's cancellation is sought for and in the second case, when there is a breach of condition, subject to which the bail is granted. However, while considering an application for cancellation of bail, it is not permissible to re-appreciate the evidence, or the prima facie finding recorded in favour of the applicant.

Perusal of the impugned order, however, does not indicate existence of either of the grounds. Hence, the application is rejected.

(SMT. BHARATI DANGRE, J.)