

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 36 OF 2019**

Brijesh Virendra ShuklaApplicant

Versus

The State of Maharashtra and Anr. ...Respondents

Mr. Vijay Jha with Mr. Ankit Upadhyay i/b. Law Juris, Advocates for the Applicant.

Ms. Anamika Malhotra, APP for Respondent No.1-State.

Mr. Mateen Shaikh along with Ms. Muskan Shaikh, Advocates for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 31st AUGUST, 2023.

P.C. :

1. By this application, applicant is seeking cancellation of bail order passed by Sessions Court, Mumbai.

2. It is contention of learned counsel for applicant that learned Magistrate has passed the order mechanically and without application of mind. Even the investigating officer was not present when the order was passed. The offences against the applicant are serious i.e. under Section 420 and others sections of Indian Penal

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Code but in spite of that, learned Magistrate has passed the impugned order. Thereafter, said order was challenged before the Sessions Court but learned Sessions Court has not considered the fact that learned Metropolitan Magistrate had passed order without any reasonable ground. Hence, requested to allow the application.

3. Learned counsel for Respondent No.2 submitted that the Investigating Officer had filed his say before Metropolitan Magistrate. It shows that the Investigating Officer had opposed the bail application. Learned Magistrate after hearing both the sides had passed the order. Learned counsel further submitted that the order passed by learned Magistrate was challenged by prosecution before the Sessions Court. The learned Sessions Court has rejected the said application. The said order is not challenged by prosecution but it is challenged by the complainant. Hence, requested to reject the application.

4. I have heard both learned counsel, perused the order passed by learned Sessions Court. It appears from record, while passing the order, learned Magistrate has observed that he has heard both the sides. It appears from the record that Investigating Officer had opposed the bail application. Moreover, the Sessions Court

while rejecting the miscellaneous application filed by applicant has observed that there are no grounds to cancel the bail. The Sessions Court has passed a well reasoned order. Applicant has not given sufficient reason for cancellation of bail of respondent No.2.

5. In view of above, I pass following order.

(i) Application is rejected.

(SHIVKUMAR DIGE, J.)