

SA Pathan

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

CRIMINAL APPLICATION NO. 25 OF 2023

**WITH
CRIMINAL APPLICATION NO. 26 OF 2023**

Mahesh Bhagvanbhai Patel ... Applicant

V/s.

The State of Maharashtra & Ors. ... Respondents

Mr. Amit Sale i/by Mr. Gaurav Nankan, for the Applicant.

Mr. Nitin Sejpal a/w Mrs. Pooja Sejpal a/w. Ms. Akshata Desai, for Respondent No.2 in Criminal Application No.26 of 2023.

Mrs. Veera Shinde, APP for the State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : JUNE 27, 2023

P.C.:

1. This is an application under Section 439(2) of the Code of Criminal Procedure, 1973 filed by the applicant-original complainant for challenging order granted regular bail to respondent Nos.2 to 4.

2. The applicant-original complainant filed the report alleging that the accused persons misused blank signed cheques and by forging signatures transferred amount in various companies accounts at Gujarat. The respondent Nos.2 to 4 were arrested. The trial Court released respondent No.2 to 4 on regular bail by order dated 9 November 2022.

3. The reason weighed with the trial Court is that the informant himself consented for transfer of amount in favour of these companies.

4. According to learned Advocate for the applicant three companies are non-existent. The investigation report indicates that, the statement of persons who are working as Watchman and Peon had stated that they have no connection with the companies and they have signed the documents which were brought by the applicant. According to applicant, this factor supports the case of applicant that the documents were forged and the amount was siphoned in the accounts of non-existent companies.

5. In the facts of present case, whether these cheques signed by the informant and his sister-in-law or not and whether the RTGS forms are signed by them or not, is the matter of investigation. The scope of application seeking cancellation of bail has been laid down by the apex Court in the case of **Dolat Ram vs State of Haryana** reported in 1995 SCC (1) 349, it is well settled that unless the Court granting bail takes into account irrelevant material of substantial nature or overlooks influential position of the accused in comparison with the victim or past criminal record and conduct of the accused has been completely ignored or where bail is granted on untenable ground or where serious discrepancies are found in the order causing prejudice to justice, the bail cannot be cancelled. In the facts of the case, the ground raised for cancellation requires detailed investigation. At this stage, it would be premature to arrive at any conclusion. Hence, no ground for cancellation is made out.

6. Both the criminal applications are, therefore, rejected. No costs.

(AMIT BORKAR, J.)