

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

**INTERIM APPLICATION NO.1874 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.917 OF 2021**

Vimal Hundraj Hemani

...Applicant

Versus

The State of Maharashtra and Ors.

...Respondents

...

Mr. Prashant P. More with Ms Kanchan Chindarkar for the Applicant.

Mr. Shrikant Yadav, APP for Respondent-State.

Mr. Dilip Sawant, PSI, Bandra Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 29th MARCH, 2023.

P. C. :-

1. This is an application for cancellation of bail granted to Respondent Nos.2 and 3 by this Court vide order dated 21/06/2021 in Anticipatory Bail Application No.917 of 2021.

2. Heard Mr. Prashant More, learned counsel for the Applicant and Mr. Shrikant Yadav, learned APP for the Respondent -State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. A perusal of order dated 21/06/2021 reveals that while

granting pre-arrest bail to the Respondent Nos.2 and 3, this Court considered the fact that the Applicant No.1 in the Anticipatory Bail Application has also lodged a complaint before the EOW, Panchkula. It is held that from the tenor of the FIR it is evident that there were continuous transactions between the Applicant and the Respondent Nos.2 and 3. It was observed that even prior to lodging of the FIR, Respondent Nos.2 and 3 had already lodged complaint against the present Applicant. It was also noticed that Respondent Nos.2 and 3 had already issued notice to the Applicant stating that the goods which were supplied to the Respondent Nos.2 and 3 were of inferior quality and the Court also took note of the fact that the transaction were of the year 2018. This Court also took note of the fact that the Respondents were granted interim protection and they have co-operated with the investigation and that custodial interrogation was not necessary.

4. At the outset, it may be mentioned that the bail granted cannot be cancelled in a casual or mechanical manner. It is well settled that parameters for grant of bail are entirely different from cancellation of bail. These principles have been reiterated by the Apex Court in *Myakala Dharmarajam and Ors. vs. The State of Telangana and Anr. (2020) 2 SCC 743*, the Apex Court has observed thus:-

7. *The factors to be considered while granting bail have been held by this Court to be the gravity of the crime, the character of the evidence, position and status of the accused with reference to the victim and witnesses, the likelihood of the accused fleeing from justice and repeating the offence, the possibility of his tampering with the evidence and witnesses, and obstructing the course of justice etc. Each criminal case presents its own peculiar factual scenario and, therefore, certain grounds peculiar to a particular case may have to be taken into account by the Court. The court has to only opine as to whether there is prima facie case against the accused. For the purpose of bail, the Court must not undertake meticulous examination of the evidence collected by the police and comment on the same.*
8. *In Raghbir Singh v. State of Bihar this Court held that bail can be cancelled where (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation, (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation, (v) there is likelihood of his fleeing to another country, (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency, (vii)*

attempts to place himself beyond the reach of his surety, etc. The above grounds are illustrative and not exhaustive. It must also be remembered that rejection of bail stands on one footing but cancellation of bail is a harsh order because it interferes with the liberty of the individual and hence it must not be lightly resorted to.

9. *It is trite law that cancellation of bail can be done in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant material indicating prima facie involvement of the accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in cancelling the bail.”*

5. Learned counsel for the Applicant submits that the Respondents are habitual offenders and that they have cheated many others in similar manner. The Applicant has also sought to cancel the bail on the ground that the Respondent Nos.2 and 3 herein have issued threats. Learned counsel for the Applicant refers to letter dated 06/01/2022 addressed to Senior Police Officer, Bandra Police Station, stating that Respondent No.2 had indirectly threatened the Applicant on whatsapp and directly threatened him through someone that he

would shoot him with AK47. It is not in dispute that no crime is registered against the Respondent Nos.2 and 3 on the basis of the letter dated 06/01/2022. The Applicant has neither filed private complaint nor application under Section 156(3) of the Cr.P.C. Apart from this letter addressed to the Police Officer, there is no material on record to substantiate the allegations of threat. Suffice it to say that the bail granted on merits cannot be cancelled on such vague allegations, particularly when the bail was granted after considering all the relevant considerations including criminal antecedents. The application has not merits and is accordingly dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

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