

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

CRIMINAL APPLICATION NO.128 OF 2019

Mrs. Mangala Ashok Tike

...Applicant

Versus

Ms Sujata Sanjay Dhonde and Anr.

...Respondents

...

Mr. Omkar G. Nagwekar for the Applicant.

Mr. S.V. Gavand, APP for Respondent-State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 7th JUNE, 2023.

P. C. :-

1. The Applicant has sought cancellation of bail granted to Respondent No.1 vide order dated 05/04/2018 passed by the learned Additional Sessions Judge, Greater Bombay in C.R. No.35 of 2018 registered with Dadar Police Station, Mumbai, for the offences punishable under Section 381 of the IPC.

2. It is the case of the prosecution that Respondent No.1 was working as maid servant in the house of the Applicant. It is alleged that Respondent No.1 had committed theft of jewelry. Respondent No.1 had gone to her native place and that she did not return. The First Informant realised that jewelry worth Rs. 4,15,000/- was missing. She therefore lodged the FIR. Respondent No.1 was arrested on

18/03/2018 and was released on bail on 05/04/2018. The order records that Respondent No.1 had attended the police station on 26/02/2018 and again on 1/03/2018 and on attending the police station on 18/03/2018 she came to be arrested. She had made allegations of ill-treatment by the police authorities. Upon medical examination injuries were noticed and hence police remand was refused and she was remanded to judicial custody. The bail order records that there was delay in lodging the complaint. Apart from the Respondent No.1 there was another servant in the house during the entire period. The complaint was lodged against Respondent No.1 on the basis of suspicion. Learned Sessions Court also took note of the fact that Respondent No.1 was a young girl and her marriage was scheduled. Considering all these aspects she was ordered to be released on bail.

3. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

4. It is well settled that parameters for grant of bail are entirely different from cancellation of bail. In ***Myakala Dharmarajam and Ors. v/s. The State of Telangana and Anr. (2020) 2 SCC 743***, the

Apex Court has observed thus :-

“6. 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.

7. In Raghubir 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.

8. *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. The impugned order is neither perverse nor suffers from infirmity. Respondent No.1 is on bail since the year 2018. She has not misused the liberty. Hence, no case is made out for cancellation of bail. Under the circumstances, the Application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)