

**HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA**

CRIMINAL PETITION No.2995 of 2023

**ORDER:**

This matter came up for consideration before this Court basing on the application initially filed before the High Court of Andhra Pradesh at Amaravathi by the Central Bureau of Investigation (hereinafter referred to as "the CBI" for brevity) seeking cancellation of bail that was granted in favour of accused No.1 (respondent No.1 herein) in RC.No.04(S)/2020/SC-III/New Delhi. The High Court of Andhra Pradesh which dealt with the matter through orders, dated 16.3.2022, exhibiting an opinion that there are no legal grounds to cancel the bail that was granted in favour of accused No.1 (respondent No.1 herein), dismissed the application, *vide* Criminal Petition No.788 of 2022.

2. CBI carried the matter in appeal to the Hon'ble Supreme Court. The Hon'ble Supreme Court rendered judgment on 16.01.2023 in Criminal Appeal No.37 of 2023, remitting the matter back to the High Court for considering the application moved by the CBI afresh in accordance with law and on merits in the light of the observations made by it.

The Hon'ble Supreme Court, in pursuance of the earlier judgment and the order rendered by it transferring the case to C.B.I. Special Court, Hyderabad, ordered that the application moved for cancellation of bail, which was earlier filed before the High Court of Andhra Pradesh at Amaravathi, be transferred to the High Court for the State of Telangana. The Hon'ble Supreme Court ordered this Court i.e., High Court for the State of Telangana to consider, decide and dispose of the application for cancellation of bail on merits and in the light of the observations made. Thus, the present case came up for consideration before this Court.

3. Heard Sri N.Nagendar and Sri Anil Talwar, learned Special Public Prosecutors for CBI. Also, heard Sri D.Seshadri Naidu, learned senior counsel, who argued on behalf of Sri C.Sharan Reddy, learned counsel on record for respondent No.1-accused No.1. Also heard, Sri L.Ravi Chander, learned senior counsel and Sri Posani Venkateswarlu, learned senior counsel, who argued on behalf of Ms. T.Swetcha, learned counsel on record for respondent No.2.

4. Perused the contents of entire material that is placed by the contesting parties and the contents of the case law relied upon.

5. The case of the CBI, as per the contents of charge sheet, in capsule, is that a larger conspiracy and pre meditated plan resulted in the death of Sri Y.S.Vivekananda Reddy (hereinafter referred to as “the deceased” for brevity), who was a prominent political person at the State of Andhra Pradesh. The deceased served as Member of Legislative Assembly, Member of Lok Sabha and as Minister in the Government of Andhra Pradesh for a considerable period. The deceased happens to be the brother of former Chief Minister of Andhra Pradesh and uncle of the present Chief Minister of the same State.

6. The plan for assassination of the deceased was prepared in or around 10.02.2019 at the house of accused No.1, for cancellation of whose bail, the CBI is before this Court. The ex-driver of the deceased i.e., accused No.4-Shaik Dasthagiri, accused No.2-Y.Sunil Yadav and accused No.3-Gajjala Uma Shankar Reddy were part of the plan and conspiracy. All were having different reasons for boring

grudge against the deceased. On the date on which all gathered, i.e., on 10.02.2019, accused No.1 (respondent No.1 herein) proposed for killing the deceased. On a query posed by accused No.4-Shaik Dasthagiri, accused No.1 (respondent No.1) said “You are not alone, we are all with you and we have support of very powerful persons”. Accused No.4-Shaik Dasthagiri enquired “who are those powerful persons.” On that, accused No.1 (respondent No.1 herein) replied that Y.S.Avinash Reddy, Y.S.Bhaskar Reddy, Y.S.Manohar Reddy and D.Siva Shankar Reddy are also involved in the plan and that D.Siva Shankar Reddy (who is arrayed as accused No.5 through a supplementary charge sheet) would give them Rupees Forty Crores. Accused No.1 (respondent No.1 herein) also informed accused No.4-Shaik Dasthagiri that his share would be Rupees Five crores out of that amount. It was decided that accused No.2-Y.Sunil Yadav and accused No.3-Gajjala Uma Shankar Reddy will kill the street dog which is roaming near the house of the deceased as it could be a hindrance for the execution of the plan.

7. Four to five days thereafter, accused No.4-Shaik Dasthagiri received a sum of Rupees One Crore from accused

No.2-Y.Sunil Yadav as advance for execution of the plan. Accused No.4-Shaik Dasthagiri kept the amount with his associate by name Syed Munna. The CBI, during the course of investigation, seized an unexplained sum of Rs.46,70,000/- from the locker of the said Syed Munna. Ten days after preparing the plan, accused No.2-Y.Sunil Yadav and accused No.3-Gajjala Uma Shankar Reddy killed the street dog.

8. On 14.3.2019, accused No.1 (respondent No.1 herein) confirmed the absence of trusted servant of the deceased by name P.Rajasekhar at the house of the deceased. To execute the plan, accused No.4-Shaik Dasthagiri purchased an axe on the same evening. Accused No.4-Shaik Dasthagiri and accused No.2-Y.Sunil Yadav consumed alcohol in the vacant area which is present near the house of the deceased. Around 11.30 p.m., on the same day, the deceased returned to his house after day long election campaign. Fifteen to twenty minutes thereafter, accused No.3-Gajjala Uma Shankar Reddy dropped accused No.1 (respondent No.1 herein) at the house of the deceased on his motor cycle. Later, accused No.3-Gajjala Uma Shankar Reddy joined accused No.2-

Y.Sunil Yadav and accused No.4-Shaik Dasthagiri who were consuming alcohol.

9. Accused No.1 (respondent No.1 herein) entered into the house of the deceased through the main gate. After some time, the deceased came out of the house for smoking and informed the watchman-Ranganna that accused No.1 (respondent No.1 herein) will stay there for that night. After some time, accused No.2-Y.Sunil Yadav, accused No.3-Gajjala Uma Shankar Reddy and accused No.4-Shaik Dasthagiri started from the place where they were consuming alcohol and reached the rear side of the house of the deceased on the motor cycle of accused No.3-Gajjala Uma Shankar Reddy. They all jumped the wall. Accused No.1 (respondent No.1 herein), who was already present at the house of the deceased, opened the side door of the house and on that, all the three entered into the house of the deceased. An argument went on between accused No.1 (respondent No.1 herein) and the deceased regarding monetary transactions. Accused Nos.1 to 4 thrashed the deceased with axe and punches. The deceased was forced to write a note throwing blame on his driver-Prasad. Thereafter, they took

the deceased to the bath room and again, they gave blows with the axe. After killing the deceased, they searched the house and took away some documents. Subsequently, accused Nos.2 to 4 jumped the wall and reached the place where the motor cycle was parked. Accused No.1 (respondent No.1) came out through the front gate. While going out, he threatened the watchman-Ranganna of dire consequences if he reveals anything to anyone about the incident. Thereafter, all of them met at the residence of accused No.1 (respondent No.1 herein) at about 5.30 am of 15.3.2019. Accused No.1 assured accused Nos.2 to 4 not to worry about Police. He also assured of cleaning the scene of offence. On that, accused Nos.2 to 4 disbursed in different directions.

10. Investigation revealed accused No.3-Gajjala Uma Shankar Reddy running on the road around 3.15 am. It was found through a CC TV camera installed on a Bridgestone shop which is located near the house of the deceased. Positive opinion to that effect was given by the Directorate of Forensic Science, Gandhinagar, Gujarat. Google co-ordinates reveal the presence of accused No.2-Y.Sunil Yadav at the scene of offence on the intervening night of 14/15-3-2019 at

02:42:04 hours. Investigation also revealed that accused No.2 and accused No.4 exchanged several SMS and calls on the previous day and also on the date of the incident. Investigation also revealed that accused No.1 enquired the watchman-Ranganna in the evening of 14.3.2019 so as to ensure that the Care-taker-P.Rajasekhar was not coming back on that night. Investigation also revealed involvement of accused No.1 in cleaning the scene of offence and destroying the evidence. Investigation also revealed that accused Nos.1 to 4 were associated with each other and with the deceased, due to which their entry into the house of the deceased was friendly on the night of the incident.

11. As per the contents of the supplementary charge sheet, Forensic Psychological Analysis, on the contents of the letter purportedly written by the deceased at the time of his murder, revealed that the contents present therein were written under duress. It also indicated poor and messy hand writing. The co-ordination between the pen and the brain is not observed in the said hand writing. The hand writing was shaky and irregular which indicates that the writer was under extreme thought pressure. The letter is incomplete and

the signature style is different to that of the standard writings and signature.

12. Accused No.5-D.Siva Shankar Reddy visited the house of the deceased on 15.3.2019 at around 6.30 am, propagated a fake theory along with his other associates, who are part of the conspiracy, regarding the death of the deceased that he died due to heart attack. On the instructions of accused No.1 (respondent No.1 herein) and accused No.5-D.Siva Shankar Reddy, the maid working at the house of the deceased by name Lakshmi cleaned the blood stains present at the scene of offence. Also, accused No.1 (respondent No.1) and accused No.5-D.Siva Shankar Reddy played an active role to dress up the scene of crime. The room was bolted from inside by accused No.1 (respondent No.1) and accused No.5-D.Siva Shankar Reddy. Thus, accused No.1 (respondent No.1 herein) and accused No.5-D.Siva Shankar Reddy along with their close associates actively participated in destruction of the scene of crime by cleaning the bed room, bath room and getting the wounds cleaned with the help of a Compounder and others. The witnesses-Inayathullah, maid-Lakshmi, Prakash and others revealed the role of accused No.1 and

accused No.5-D.Siva Shankar Reddy in arrangement of cotton, bandages and Body freezer box through their associates. The witnesses- Madhusudhan Reddy and Venkataramana have revealed that the room was bolted from inside while cleaning and bandaging was going on. Another witness by name Pratap Reddy also corroborated the said fact and that at that time, the Circle Inspector-Shankaraiah also reached there and enquired accused No.1 (respondent No.1) and accused No.5-D.Siva Shankar Reddy as to why they are getting the scene of offence cleaned as it will get complicated. Accused No.5-D.Siva Shankar Reddy and his close associates tried to convince the persons who visited that the deceased died due to blood vomiting and heart attack. Accused No.1 (respondent No.1 herein) and accused No.5-D.Siva Shankar Reddy, who reached the scene of offence, started cleaning the scene of offence without informing the daughter of the deceased and her husband. Accused No.5-D.Siva Shankar Reddy dictated a vague complaint to one M.V.Krishna Reddy and insisted the Circle Inspector-Shankariah to register the F.I.R. on the basis of the said vague complaint. Accused No.5 offered one K.Gangadhar Reddy Rupees Ten crores for taking

the responsibility of murder of the deceased. Accused No.5-D.Siva Shankar Reddy tried to influence accused No.4-Shaik Dasthagiri after his statement was given under Section 164 Cr.P.C.

13. On 03.3.2021, CBI called accused No.4-Shaik Dasthagiri and others to New Delhi by giving notices. Ten days prior to the date on which they are supposed to appear, accused No.5-D.Siva Shankar Reddy called accused No.4-Shaik Dasthagiri to the house of one Bayupu Reddy at Pulivendala and briefed him not to disclose their names before CBI and assured that his life would be settled. Bayupu Reddy confirmed the visit of accused No.5-D.Siva Shankar Reddy to his house and stated that they came to his house and had a discussion at the relevant period. As per the investigation, one Bharath Yadav accompanied accused No.4-Shaik Dasthagiri on his visit to New Delhi, as per the instructions of accused No.5-D.Siva Shankar Reddy, to keep a watch. After the incident, accused No.1 (respondent No.1 herein) criminally intimidated the watchman-Ranganna of fear consequences if he divulges their identity. The watchman-Ranganna in the statement given under Section

164 Cr.P.C. stated that he did not reveal the true facts before Police earlier, as he was under the threat of accused No.1 (respondent No.1 herein).

14. Penning down of the chronology of events is essential for effective and fruitful discussion with regard to the grounds highlighted by CBI seeking for cancellation of default bail granted in favour of accused No.1 who is arrayed as respondent No.1 herein.

|                                                                                                               |                                      |
|---------------------------------------------------------------------------------------------------------------|--------------------------------------|
| Date of death of the deceased                                                                                 | Intervening night of<br>14/15-3-2019 |
| Date of registration of the case<br>under Section 174 Cr.P.C.                                                 | 15.3.2019                            |
| Date on which Section of law<br>was altered                                                                   | 15.3.2019                            |
| Date of arrest of accused No.1<br>(respondent No.1 herein)                                                    | 28.3.2019                            |
| Date on which statutory bail i.e.,<br>default bail was granted in favour<br>of accused No.1 (respondent No.1) | 27.6.2019                            |
| Date on which investigation was<br>transferred to CBI as per the orders of                                    |                                      |

|                                                                                                                                                                                                                           |            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| the High Court of Andhra Pradesh in<br>W.P.Nos.3944 of 2019 and 1639 of 2020.                                                                                                                                             | 11.3.2020  |
| Date on which CBI registered the case<br>and took up further investigation                                                                                                                                                | 09.7.2020  |
| Date on which charge sheet was filed<br>by CBI                                                                                                                                                                            | 26.10.2020 |
| Date on which supplementary<br>Charge sheet was filed by CBI                                                                                                                                                              | 31.01.2022 |
| Date on which the application<br>filed by CBI vide Crl.M.P.No.791<br>of 2022 before the Sessions Court,<br>Kadapa for cancellation of bail<br>stood dismissed.                                                            | 30.11.2021 |
| Date on which the petition filed by<br>CBI seeking cancellation of statutory<br>bail granted in favour of accused No.1<br>was dismissed by the High Court of<br>Andhra Pradesh through Orders in<br>Crl.P.No.788 of 2022. | 16.3.2022  |

15. In the light of the factual scenario that is narrated  
supra and the submissions made by the contesting parties,  
the short point that falls for consideration is:

***“Whether there exists any justifiable grounds to recall the liberty granted to accused No.1 (respondent No. herein), by virtue of statutory bail granted through Orders in Crl.M.P.No.2028 of 2019, that were rendered by the Court of Judicial Magistrate of First Class, Pulivendula, dated 27.6.2019, as sought by the C.B.I.”***

16. Making their vigorous submission, justifying the relief sought for, the learned Special Public Prosecutors who argued on behalf of the CBI, collectively stated that accused No.1 (respondent No.1) played active role in killing the deceased. They stated that the conspiracy to kill the deceased was hatched at the residence of accused No.1 (respondent No.1) and it is accused No.1 (respondent No.1) who facilitated free entry of other three assailants, i.e., accused Nos.2 to 4 into the house of the deceased on the night of the incident. They stated that the statement of the witnesses reveals larger conspiracy, destruction of the scene of crime and also revealed prominent role played by accused No.1 (respondent No.1) in the commission of the crime.

17. Sri N.Nagendar, learned Special Public Prosecutor for CBI, vehemently argued that accused No.1 (respondent No.1) intimidated the witnesses. Learned Special Public Prosecutor also stated that while escaping from the house of the deceased, accused No.1 (respondent No.1 herein) threatened the watchman-Ranganna of dire consequences if he reveals their identity. Learned Special Public Prosecutor also stated that when the statement of the watchman-Ranganna was recorded under Section 164 Cr.,P.C. by the Magistrate concerned, he clearly stated that he did not reveal the true facts earlier, as he was under the threat of accused No.1 (respondent No.1 herein). Learned Special Public Prosecutor also stated that as a part of the conspiracy, accused No.1 (respondent No.1 herein) and accused No.5-D.Siva Shankar Reddy along with their associates have given wide propagation to the theory of heart attack to the deceased so as to escape from the clutches of law. Learned Special Public Prosecutor also stated that much material is on record to show that the scene of offences i.e., the bed room and the bath room of the house of the deceased were cleaned thoroughly under the directions of accused No1 (respondent

No.1) and that the wounds of the deceased were got bandaged under his directions. Learned Special Public Prosecutor also stated that in case, accused No.1 (respondent No.1 herein) had no intention to screen the evidence, he had no reason to manage the things and to propagate the theory of heart attack and blood vomiting. Learned Special Public Prosecutor also stated that at every stage of investigation, accused No.1 (respondent No.1 herein) is interfering. Learned Special Public Prosecutor also stated that accused No.1 (respondent No.1 herein) is monitoring the investigation with his henchmen and it is found that his associates are influencing the vital witnesses. Learned Special Public Prosecutor also stated that further investigation is still continuing regarding the larger conspiracy and the persons behind the screen. Learned Special Public Prosecutor also stated that there is sound suspicion that several witnesses are being influenced at the behest of accused No.1 (respondent No.1 herein). Learned Special Public Prosecutor finally stated that the presence of accused No.1 (respondent No.1 herein) outside itself sends an indication to the crucial witnesses that their lives would be at stake in case they open

their mouths regarding the material facts concerning larger conspiracy and thus, at the crucial stage of investigation, the presence of accused No.1 (respondent No.1 herein) outside is undesirable. Learned Special Public Prosecutor thereby seeks to cancel the bail granted and to remand accused No.1 (respondent No.1 herein) to judicial custody.

18. Respondent No.2 who came on record in this case through orders in I.A.No.1 of 2023 dated 20.4.2023 sailed along with the petitioner-CBI.

19. Sri Posani Venkateswarlu and Sri L.Ravi Chander, learned senior counsels, argued on behalf of respondent No.2. Their submission is that accused No.1 is the master mind and the person who executed the plan. Learned senior counsels stated that it is accused No.1 (respondent No.1) who opened the doors of the house of the deceased and facilitated the other prime accused to enter into the house of the deceased on the night of the incident. They also stated that it is accused No.1 (respondent No.1 herein) who assured to give Rupees Forty Crores to other accused.

20. Sri L.Ravi Chander, learned senior counsel, submitted that accused No.1 (respondent No.1 herein) is the bridge

between the persons behind the screen and the executants of the plan. Learned senior counsel further submitted that CBI has recovered Rupees Forty Five lakhs from a friend of accused No.4-Shaik Dasthagiri, which itself establishes the version of the prosecution that huge amount was spent for eliminating the deceased. Learned senior counsel further stated that accused No.1 (respondent No.1 herein) is influencing the witnesses and as he had taken active part in killing the deceased, bail has to be cancelled. Learned senior counsel also argued that as the investigation by the Special Investigation Team (SIT) was shaky, CBI entered. Learned senior counsel submitted that mere grant of statutory/default bail cannot stop the Court to reconsider the same. Learned senior counsel during the course of his submission referred to the contents at paras-16.5, 16.8 to 16.10, 16.15 to 16.18, 16.21 to 16.23, 16.25 and 16.32 of the charge sheet as well as paras-16.6 to 16.11, 16.14 and 16.20 of the supplementary charge sheet. Learned senior counsel further submitted that at every stage of the case, accused No.1 (respondent No.1 herein) played his role and at his behest,

cases were filed against the approver and thus, bail granted in his favour has to be cancelled.

21. Sri P.Venkateswarlu, learned senior counsel, stated that investigation regarding larger conspiracy is still in progress. Referring to the order that is rendered by the Hon'ble Supreme Court in Criminal Appeal No.37 of 2023, learned senior counsel submitted that even a default bail can be cancelled and thus, accused No.1 (respondent No.1 herein) has to be sent behind the bars.

22. Vehemently opposing the relief sought for by CBI and contradicting the submissions made by the learned Special Public Prosecutors for CBI as well as learned senior counsels who represented respondent No.2, Sri D.Seshadri Naidu, learned senior counsel, who appeared on behalf of respondent No.1, stated that CBI after long lapse of time suddenly woke up and filed an application for cancellation of bail, that too, without any reasonable cause or affording sufficient reasons and therefore, the request of CBI was dishonoured both by the Sessions Court and the High Court of Andhra Pradesh at Amaravathi. Learned senior counsel referring to various dates of incidents, including the date of

arrest of accused No.1 (respondent No.1) and the date on which default bail was granted, contended that though CBI took up investigation on 09.7.2020 and filed charge sheet, thereafter, no application for cancellation of bail was moved till 02.11.2021. Learned senior counsel stated that the reasons for failure to move such an application earlier are not known. Learned senior counsel submitted that CBI continued its investigation from 09.7.2020 and filed charge sheet on 26.10.2021 and in that interregnum period, no application whatsoever was filed for cancellation of bail. Learned senior counsel stated that failure on part of CBI to move such application for cancellation of bail itself goes to show that accused No.1 (respondent No.1) did not interfere with any of the investigation process and was co-operating with the investigating agency. Learned senior counsel further submitted that CBI made its first attempt for getting the bail cancelled on 02.11.2020 by filing an application before the Sessions Court, Kadapa, but the request of CBI was negatived as the same lacks merits. Learned senior counsel submitted that the episode of approver then happened and later, CBI filed supplementary charge sheet. On 31.01.2022,

another attempt was made for cancellation of bail by filing a petition before the High Court of Andhra Pradesh at Amaravathi and by order dated 16.3.2022, the said application was also dismissed. Learned senior counsel stated that the said order was challenged before the Hon'ble Supreme Court *vide* Criminal Appeal No.37 of 2023. Learned senior counsel stated that the point that fell for consideration before the Hon'ble Supreme Court is whether a default bail can be cancelled and the Hon'ble Supreme Court gave a finding to the effect that the default bail can be cancelled, but the Hon'ble Supreme Court has not gone into the correctness of the order rendered by the High Court of Andhra Pradesh at Amaravathi. Learned senior counsel also stated that accused No.1 (respondent No.1) was summoned by CBI for about 70 to 100 times and he attended every time. At this juncture, the Court intervened and questioned Sri N.Nagendar, learned Special Public Prosecutor for CBI, whether accused No.1 (respondent No.1), indeed, appeared as submitted by the learned senior counsel. Sri N.Nagendar, learned Special Public Prosecutor, stated that accused No.1 (respondent No.1 herein) attended every time.

23. Continuing his submission, learned senior counsel stated that during investigation i.e., between the date on which CBI took up investigation and filed the charge sheet, CBI never sought for cancellation of bail and further, the order rendered by the Sessions Court by which the application for cancellation of bail was dismissed still remains unchallenged. Learned senior counsel also stated that accused No.1 (respondent No.1 herein) is not contributory factor for the delay and indeed, there is no observation to that effect by any of the Courts of all levels. Learned senior counsel further submitted that there is not even a needle of suspicion that accused No.1 (respondent No.1 herein) contributed to the delay in investigation or misled the investigation.

24. Also, referring to relevant case law i.e., the judgments that are rendered by the Hon'ble Supreme Court in the cases between **Bhuboni Sahu Vs. The King**<sup>1</sup>, **Bhiva Doulu Patil Vs. State of Maharashtra**<sup>2</sup> and **Somasundaram @ Somu Vs.**

---

<sup>1</sup> MANU/PR/0047/1949

<sup>2</sup> MANU/SC/0141/1962

**State**<sup>3</sup>, learned senior counsel stated that bail should not be cancelled only basing on the testimony of an approver.

25. In the light of the submissions thus made and before adverting to the merits of the case, the law governing the field requires discussion.

26. While Chapter-V of the Code of Criminal Procedure, 1973, deals with the law relating to arrest of persons and their rights, Chapter-XXXIII of the same Code deals with provisions relating to bail and bonds.

27. The relevant provisions so far as the present case are concerned are Sections 437 and 439 Cr.P.C. and more specifically, Section 437 (5) and Section 439(2) Cr.P.C. Those two provisions read as under:-

**Section 437 (5) Cr.P.C**-Any Court which has released a person on bail under sub- section (1) or sub- section (2), may, if it considers it necessary so to do, direct that such person be arrested and commit him to custody.

**Section 439(2)**- A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.

---

<sup>3</sup> (2020)7 SCC 722

28. However, this Court is cautious of the fact that accused No.1 was enlarged on statutory bail.

29. The purport of afore-mentioned provisions is to see that bail granted under irrelevant considerations or where subsequent events warrant recall of liberty, be entertained and that the liberty granted should not be misused.

30. Catena of decisions of the Hon'ble Supreme Court indicate the same. To start with, for proper recapitulation and for the benefit of study, few are discussed hereunder.

31. In the case between **State (Delhi Administration) Vs. Sanjay Gandhi**<sup>4</sup>, a three-judge Bench of the Hon'ble Apex Court, while dealing with the circumstances under which bail can be granted and the grounds on which the same can be rejected and further discussing about the plea for cancellation of bail thereafter, at paras 13 to 15 of the judgment observed as follows:-

“13. Rejection of bail when bail is applied for is one thing; cancellation of bail already granted is quite another. It is easier to reject a bail application in a non-bailable case than to cancel a bail granted in such a case. Cancellation of bail necessarily involves the

---

<sup>4</sup> (1978) 2 SCC 411

review of a decision already made and can by and large be permitted only if, by reason of supervening circumstances, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during the trial. The fact that prosecution witnesses have turned hostile cannot by itself justify the inference that the accused has won them over. A brother, a sister or a parent who has seen the commission of crime, may resile in the Court from a statement recorded during the course of investigation. That happens instinctively, out of natural love and affection, not out of persuasion by the accused. The witness has a stake in the innocence of the accused and tries therefore to save him from the guilt. Likewise, an employee may, out of a sense of gratitude, oblige the employer by uttering an untruth without pressure or persuasion. In other words, the objective fact that witnesses have turned hostile must be shown to bear a causal connection with the subjective involvement therein of the respondent. Without such proof, a bail once granted cannot be cancelled on the off chance or on the supposition that witnesses have been won over by the accused. Inconsistent testimony can no more be ascribed by itself to the influence of the accused than consistent testimony, by itself, can be ascribed to the pressure of the prosecution. Therefore, Mr.Mulla is right that one has to countenance a reasonable possibility that the employees of Maruti like the approver Yadav might have, of their own volition,

attempted to protect the respondent from involvement in criminal charges. Their willingness now to oblige the respondent would depend upon how much the respondent has obliged them in the past. It is therefore necessary for the prosecution to show some act or conduct on the part of the respondent from which a reasonable inference may arise that the witnesses have gone back on their statements as a result of an intervention by or on behalf of the respondent.

14. Before we go to the facts of the case, it is necessary to consider what precisely is the nature of the burden which rests on the prosecution in an application for cancellation of bail. Is it necessary for the prosecution to prove by a mathematical certainty or even beyond a reasonable doubt that the witnesses have turned hostile because they are won over by the accused? We think not. The issue of cancellation of bail can only arise in criminal cases, but that does not mean that every incidental matter in a criminal case must be proved beyond a reasonable doubt like the guilt of the accused. Whether an accused is absconding and therefore his property can be attached under Section 83 of the Criminal Procedure Code, whether a search of person or premises was taken as required by the provisions of Section 100 of the Code, whether a confession is recorded in strict accordance with the requirements of Section 164 of the Code and whether a fact was discovered in consequence of information received from an accused as required by Section 27

of the Evidence Act are all matters which fall peculiarly within the ordinary sweep of criminal trials. But though the guilt of the accused in cases which involve the assessment of these facts has to be established beyond a reasonable doubt, these various facts are not required to be proved by the same rigorous standard. Indeed, proof of facts by preponderance of probabilities as in a civil case is not foreign to criminal jurisprudence because, in cases where the statute raises a presumption of guilt as, for example, the Prevention of Corruption Act, the accused is entitled to rebut that presumption by proving his defence by a balance of probabilities. He does not have to establish his case beyond a reasonable doubt. The same standard of proof as in a civil case applies to proof of incidental issues involved in a criminal trial like the cancellation of bail of an accused. The prosecution, therefore, can establish its case in an application for cancellation of bail by showing on a preponderance of probabilities that the accused has attempted to tamper or has tampered with its witnesses. Proving by the test of balance of probabilities that the accused has abused his liberty or that there is a reasonable apprehension that he will interfere with the course of justice is all that is necessary for the prosecution to do in order to succeed in an application for cancellation of bail.

15. Our task therefore is to determine whether, by the application of the test of probabilities, the prosecution has succeeded in proving its case that the respondent

has tampered with its witnesses and that there is a reasonable apprehension that he will continue to indulge in that course of conduct if he is allowed to remain at large. Normally, the High Court's findings are treated by this Court as binding on such issues but, regretfully, we have to depart from that rule since the High Court has rejected incontrovertible evidence on hyper-technical considerations. If two views of the evidence were reasonably possible and the High Court had taken one view, we would have been disinclined to interfere therewith in this appeal under Article 136 of the Constitution. But the evidence points in one direction only, leaving no manner of doubt that the respondent has misused the facility afforded to him by the High Court by granting anticipatory bail to him.”

32. Further, taking into consideration the nature of the litigation, the ultimate findings given are as under:-

“26. But avoidance of undue hardship or harassment is the quintessence of judicial process. Justice, at all times and in all situations, has to be tempered by mercy, even as against persons who attempt to tamper with its processes. The apprehension of the prosecution is that “Maruti witnesses” are likely to be won over. The instances discussed by us are also confined to the attempted tampering of Maruti witnesses like Yadav and Charan Singh, though we have excluded Charan Singh's complaint from our consideration. Since the appellant's counsel has

assured us that the prosecution will examine the Maruti witnesses immediately and that their evidence will occupy no more than a month, it will be enough to limit the cancellation of respondent's bail to that period. We hope and trust that no unfair advantage will be taken of our order by stalling the proceedings or by asking for a stay on some pretext or the other. If that is done, the arms of law shall be long enough. Out of abundant caution, we reserve liberty to the State to apply to the High Court, if necessary, but only if strictly necessary. We are hopeful that the State too will take our order in its true spirit.

27. In the result, we allow the appeal partly, set aside the judgment of the High Court dated April, 11, cancel the respondent's bail for a period of one month from today and direct that he be taken into custody. Respondent will, in the normal course, be entitled to be released on fresh bail on the expiry of the aforesaid period. The learned Sessions Judge will be at liberty to fix the amount and conditions of bail. The order of anticipatory bail will stand modified to the extent indicated herein."

33. The second decision is the one that is rendered by the Hon'ble Apex Court in the case between **Kanwar Singh Meena Vs. State of Rajasthan and another**<sup>5</sup>, wherein a two-judge Bench of the Hon'ble Apex Court dealing with the

---

<sup>5</sup> (2012) 12 SCC 180

subject matter i.e., regarding the grounds for cancellation of bail at para 10 of the judgment held as follows:-

“10. Thus, Section 439 of the Code confers very wide powers on the High Court and the Court of Session regarding bail. But, while granting bail, the High Court and the Sessions Court are guided by the same considerations as other courts. That is to say, 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 witnesses and obstructing the course of justice and such other grounds are required to be taken into consideration. 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. The court must not undertake meticulous examination of the evidence collected by the police and comment on the same. Such assessment of evidence and premature comments are likely to deprive the accused of a fair trial. While cancelling the bail under Section 439(2) of the Code, the primary considerations which weigh with the court are whether the accused is likely to tamper with the evidence or interfere or attempt to interfere with the due course of justice or evade the due course of justice. But, that is not all. The High Court or the

Sessions Court can cancel the bail even in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant materials 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. Such orders are against the well-recognised principles underlying the power to grant bail. Such orders are legally infirm and vulnerable leading to miscarriage of justice and absence of supervening circumstances such as the propensity of the accused to tamper with the evidence, to flee from justice, etc. would not deter the court from cancelling the bail. The High Court or the Sessions Court is bound to cancel such bail orders particularly when they are passed releasing the accused involved in heinous crimes because they ultimately result in weakening the prosecution case and have adverse impact on the society. Needless to say that though the powers of this Court are much wider, this Court is equally guided by the above principles in the matter of grant or cancellation of bail.”

34. The third one is also that of the Hon'ble Apex Court in the case between ***Dolat Ram Vs. State of Haryana***<sup>6</sup>, wherein pointing out that very cogent and overwhelming

---

<sup>6</sup> 1995 SCC (1) 349

circumstances are necessary for an order directing cancellation of bail already granted, at para 4 of the judgment observed as follows:-

“4. Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of Justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a nonbailable case in the first instance and the cancellation of bail already granted.”

35. The three-judge Bench of the Hon'ble Apex Court in the case between ***X Vs. State of Telangana and another***<sup>7</sup>, dealing with the same issue, at paras 17 and 18 of the judgment held as follows:-

“17. The accused had the benefit of an order granting him anticipatory bail. The grant of anticipatory bail was cancelled principally on the ground that he had not disclosed the pendency of a prosecution against him in the 2G Spectrum case. The Court has been informed during the course of the hearing that the said prosecution has ended in an acquittal. Regular bail was granted by the High Court on 17-11-2017 [Karim Morani v. State of Telangana, 2017 SCC OnLine Hyd 533] in the present case. The second FIR which was lodged on 22-11-2017 is not, in our view, a supervening circumstance of such a nature as would warrant the cancellation of the bail which was granted by the High Court. The learned counsel appearing on behalf of the accused has submitted that the lodging of the second FIR, four days after the order of bail is merely an attempt to bolster a case based on a supervening event and that it suffers from vagueness and a complete absence of details. We are not inclined to make any further observations and leave the matter there. Above all, the Court must bear in mind that it is a settled principle of law that bail once granted should

---

<sup>7</sup> (2018) 16 SCC 511

not be cancelled unless a cogent case, based on a supervening event has been made out. We find that to be absent in the present case.

18. For the above reasons, we hold that the order of the High Court allowing the application for bail cannot be faulted. Moreover, no supervening circumstance has been made out to warrant the cancellation of the bail. There is no cogent material to indicate that the accused has been guilty of conduct which would warrant his being deprived of his liberty.”

36. Referring to the afore-mentioned decisions i.e., the decision in Dolat Rams’ case (6<sup>th</sup> referred supra) and the decision in X’s case (7<sup>th</sup> cited supra), Hon'ble Apex Court in the case between **Vipan Kumar Dhir Vs. State of Punjab**<sup>8</sup> at para 10 of the order observed as under:-

“In addition to the caveat illustrated in the cited decision(s), bail can also be revoked where the court has considered irrelevant factors or has ignored relevant material available on record which renders the order granting bail legally untenable. The gravity of the offence, conduct of the accused and societal impact of an undue indulgence by Court when the investigation is at the threshold, are also amongst a few situations, where a Superior Court can interfere in an order of bail to prevent the miscarriage of

---

<sup>8</sup> 2021 SCC Online 854

justice and to bolster the administration of criminal justice system. This Court has repeatedly viewed that while granting bail, especially anticipatory bail which is per se extraordinary in nature, the possibility of the accused to influence prosecution witnesses, threatening the family members of the deceased, fleeing from justice or creating other impediments in the fair investigation, ought not to be overlooked.”

37. Learned senior counsels appearing for accused No.1 (respondent No.1 herein) in support of his submission that bail once granted cannot be easily cancelled, relied upon the decision of the Hon'ble Apex Court in the case between ***Raghubir Singh Vs. State of Bihar***<sup>9</sup>, wherein the Court at para 22 of the order held as under:-

“The result of our discussion and the case-law in this:

An order for release on bail made under the proviso to section 167(2) is not defeated by lapse of time, the filing of the charge sheet or by remand to custody under section 309(2). The order for release on bail may however be cancelled under section 437(5) or section 439 (2). Generally the grounds for cancellation of bail, broadly, are, interference or attempt to interfere with the due course of administration of justice, or evasion or attempt to evade the course of justice, or abuse of the liberty granted to him. The due administration of justice may be interfered with by intimidating or suborning

---

<sup>9</sup> (1986) 4 SCC 481

witnesses, by interfering with investigation, by creating or causing disappearance of evidence etc. The course of justice may be evaded or attempted to be evaded by leaving the country or going underground or otherwise placing himself beyond the reach of the sureties. He may abuse the liberty granted to him by indulging in similar or other unlawful acts. Where bail has been granted under the proviso to section 167(2) for the default of the prosecution in not completing the investigation in sixty days, after the defect is cured by the filing of a charge sheet, the prosecution may seek to have the bail cancelled on the ground that there are reasonable grounds to believe that the accused has committed a non-bailable offence and that it is necessary to arrest him and commit him to custody. In the last mentioned case, one would expect very strong grounds indeed.”

38. Thus, all these decisions in one voice state and indicate that grant of bail and cancellation of bail stand on differing footing. Interference or attempt to interfere with the due course of investigation or administration of justice is one of the prominent factors for cancellation of bail. The impediments created or attempts to create such impediments in the fair investigation should not be overlooked.

39. In the case on hand, as earlier discussed, the main grievance of CBI is that accused No.1 (respondent No.1

herein) is interfering with the investigation. The submission of the learned Special Public Prosecutor is that the presence of accused No.1 (respondent No.1 herein) outside itself is sufficient to make the witnesses fear of revealing the true facts and thus, hampering the investigation. Learned Special Public Prosecutor also stated that accused No.1 (respondent No.1 herein) played prominent role in larger conspiracy.

40. Referring to the findings given by the Hon'ble Supreme Court in the order rendered in Criminal Appeal No.37 of 2023, learned Special Public Prosecutor stated that the Hon'ble Supreme Court had set aside the order of the High Court of Andhra Pradesh at Amaravathi and thus, there is no legal sanctity to the findings given and thus, the observations made in the said order should not be looked into. Learned Special Public Prosecutor also stated that when inquest has to be conducted at the scene of offence, inquest was conducted at the hospital, that too, at the instance of accused No.1 (respondent No.1 herein), which itself speaks volumes. Learned Special Public Prosecutor also stated that when CBI is trying to examine the crucial witnesses, at the instance of accused No.1 (respondent No.1 herein), several

complaints are being made against CBI officials and thus, CBI is unable to proceed with fair investigation.

41. Supporting the said submission, learned senior counsel who appeared for respondent No.2 stated that there are several laches in the investigation initially and there was inordinate delay. Learned senior counsel also stated that accused No.1 (respondent No.1 herein) misused his liberty and he would continue to do so and therefore, there is every requirement to effect his arrest and remand to prison.

42. However, the submission of the learned senior counsel who appeared for accused No.1 (respondent No.1 herein) is that though there was sufficient opportunity for CBI to file such an application for cancellation of bail, it did not do so and it kept quiet for a long period of more than 14 months. Learned senior counsel also stated that there are no special reasons as to why CBI suddenly moved an application before the Sessions Court for cancellation of bail and likewise, there are no reasons as to why the order of dismissal of the application filed by CBI for cancellation of bail was not challenged before the higher forum. Learned senior counsel also stated that in the orders rendered by the High court of

Andhra Pradesh at Amaravathi, reference was made to the laches on part of CBI and those laches which were pointed out were not referred by the Hon'ble Supreme Court in its decision. Learned senior counsel also stated that accused No.1 (respondent No.1 herein) was co-operating with the investigating agency at every stage and he appeared as and when required before CBI. Learned senior counsel further stated that no specific instance is shown that accused No.1 (respondent No.1 herein) failed to comply with the orders of CBI. In this regard, learned senior counsel brought to the notice of this Court that accused No.1 (respondent No.1 herein) also subjected himself to polygraph test. Learned senior counsel, therefore, seeks to dismiss the application filed for cancellation of bail.

43. As per the version of CBI, the deceased was killed brutally. Through the charge sheets i.e., primary and supplementary, CBI has projected that it is accused No.1 (respondent No.1 herein) who had entered into the house of the deceased in the night of the incident and thereafter, as per the conspiracy, opened the door and paved way for accused Nos.2 to 4 to enter into the house. The version of

CBI is also that the conspiracy to kill the deceased was hatched on 10.02.2019 at the house of accused No.1 wherein accused Nos.2 to 4 participated and discussed. Also, the version of CBI is that as part of the plan, the street dog which accused Nos.1 to 4 feared to cause hindrance was killed and thereafter, care was taken that the trusted servant of the deceased by name Rajasekhar would not return to the house of the deceased on the date of the incident. The case of CBI is also that on opening the door by accused No.1 (respondent No.1 herein), accused Nos.2 to 4 entered into the house of the deceased armed with deadly weapon i.e., axe and thereafter, hacked the deceased brutally to death. The case of CBI is also that after attacking the deceased initially and causing injuries, he was made to write a letter throwing blame on the driver by name Prasad and thereafter, the deceased was taken to the bath room and killed. The case of CBI is also that after killing the deceased, accused Nos.2 to 4 escaped from the point of entry and thereafter, accused No.1 came out of the house, threatened watchman-Ranganna not to disclose anything and thereafter, left the place. The further case of CBI is that in the early morning, accused No.1 (respondent

No.1 herein) along with accused No.5-D.Siva Shankar Reddy entered into the house of the deceased and got the blood stains at the scenes of offence cleaned, the wounds dressed up and thereafter, gave publicity that the deceased died due to blood vomiting and heart attack. Also, the case of CBI is that a huge sum of Rupees Forty crores was offered for execution of the plan and some of the amount was seized from a close associate of accused No.4-Shaik Dasthagiri by name Syed Munna. Also, the case of CBI is that the handwriting of the deceased and his signature that was present on the letter was subjected to Forensic Psychological Analysis, which gave a finding that the hand writing is poor and messy and co-ordination between the pen and the brain is not observed. Further, the case of CBI is that the Google location of accused No.2-Y.Sunil Yadav which was obtained from Google co-ordinates reveal his presence at the scene of offence on the intervening night of 14/15-3-2019 at 02:42:04 hours.

44. Apart from these facts, the version of CBI is that accused No.1 (respondent No.1 herein), after commission of the crime, is interfering with the investigating process and

that he is threatening the witnesses. In this regard, the submission of the learned senior counsel who appeared for respondent No.1 is that no material whatsoever is placed before this Court or the High Court of Andhra Pradesh at Amaravathi or before the Sessions Court concerned that accused No.1 (respondent No.1 herein) at any time contacted any of the witnesses or threatened or at least requested them to speak in his favour or in favour of any of the suspects. Learned senior counsel stated that CBI has not produced any material to show that accused No.1 (respondent No.1 herein) is interfering with the investigating process and therefore, it would be wholly undesirable to cancel the bail granted and to remand him to judicial custody.

45. In the case on hand, *prima facie* participation of accused No.1 (respondent No.1 herein) in the commission of crime is projected through the preliminary as well as supplementary charge sheets. Further, learned Special Public Prosecutor has brought to the notice of this Court the contents of the statement of the watchman-Ranganna that was recorded under Section 164 Cr.P.C., wherein and

whereby he stated that he did not disclose the true facts due to the fear of accused No.1 (respondent No.1 herein).

46. While discussing the merits of an application for grant of bail or the application filed for cancellation of bail granted, the Court is not expected to give its findings in certain with regard to the guilt or otherwise of any of the accused. Also, neither the prosecuting agency nor the accused are at liability to project their version by producing proof beyond all reasonable doubt.

47. In the case on hand, the consistent version of CBI from the beginning is that hindrance is being caused for proper investigation to be conducted and that too, timely.

48. Admittedly, the investigation could not be concluded for various reasons, of course, not wholly attributable to the conduct of the accused.

49. As per the version of the CBI, the accused are causing such hindrance. Also, in the grounds urged, CBI has pointed out that there is destruction of positive evidence from the initial stage by accused No.1 (respondent No.1 herein) and his associates and to flee from the clutches of justice, a false theory of death of the deceased due to cardiac arrest was

projected. It is also narrated that three witnesses namely Gangadhar Reddy, Shankar Reddy and M.V.Krishna Reddy are suspected to have come under the influence of accused No.1 (respondent No.1 herein) and accused No.5. Further, there is an allegation that accused No.5-Gajjala Uma Shankar Reddy requested Gangadhar Reddy to take responsibility of the murder of the deceased and that he would offer Rupees Ten crores.

50. As rightly pointed out by learned senior counsel appearing for accused No.1 (respondent No.1 herein), proof in certainty is not produced by CBI to establish these facts. However, when the facts of the case and the culminating circumstance are gone through including the statement given by one Ranganna at the crucial stage and the statement given by him before the Magistrate under Section 164 Cr.P.C., this Court is of the view that fear exists in the minds of the witnesses about the consequences. Learned Special Public Prosecutor stated that one can easily presume the consequences, if any, which would be faced by the witnesses from the accused or through their aided persons in heinous offences like this.

51. This is not a case where on merits bail was granted in favour of accused No.1 (respondent No.1 herein). Accused No.1 (respondent No.1 herein) obtained default bail when the investigating agency i.e., Special Investigation Team could not complete the investigation within the statutory period of 90 days. The Hon'ble Apex Court in the decision rendered in Criminal appeal No.37 of 2023, more so, at paras 11 to 13 of the order held as follows:-

“11. Therefore, there is no absolute bar as observed and held by the High Court in the impugned judgment and order that once a person is released on default bail under Section 167(2) Cr.P.C., his bail cannot be cancelled on merits and his bail can be cancelled on other general grounds like tampering with the evidence/witnesses; not co-operating with the investigating agency and/or not cooperating with the concerned Trial Court etc.

12. As such, we are in complete agreement with the view taken by this Court in the aforesaid decisions. The submission on behalf of the respondent – original Accused No. 1 and the view taken by the High Court in the impugned judgment and order that once an accused is released on default bail under Section 167(2) Cr.P.C., his bail cannot be cancelled on merits is accepted, in that case, it will be giving a premium to the lethargic and/or negligence, may be in a given case of deliberate attempt on the part of the investigating

agency not to file the charge sheet within the prescribed time period. In a given case, even if the accused has committed a very serious offence, may be under the NDPS or even committed murder(s), still however, he manages through a convenient investigating officer and he manages not to file the charge sheet within the prescribed time limit mentioned under Section 167(2) Cr.P.C. and got released on default bail, it may lead to giving a premium to illegality and/or dishonesty. As observed hereinabove, such release of the accused on default bail is not on merits at all, and is on the eventuality occurring in proviso to sub-section (2) of Section 167. However, subsequently on curing the defects and filing the charge sheet, though a strong case is made out that an accused has committed the very serious offence and non-bailable crime, the Court cannot cancel the bail and commit the person into custody and not to consider the gravity of the offence committed by the accused, the Courts will be loathe for such an interpretation, as that would frustrate the justice. The Courts have the power to cancel the bail and to examine the merits of the case in a case where the accused is released on default bail and released not on merits earlier. Such an interpretation would be in furtherance to the administration of justice.

13. In view of the above and for the reasons stated above, the impugned judgment and order passed by the High Court dismissing the application for cancellation of the bail filed by the C.B.I. under Section

439(2) Cr.P.C. deserves to be quashed and set aside and is accordingly quashed and set aside.”

52. Having regard to the allegations levelled, this Court is of the view that accused No.1 (respondent No.1 herein) was clearly entitled for a default bail under Section 167(2) Cr.P.C. and this Court is also of the view that except for default bail, having regard to the gravity in the allegations levelled and the incidents occurred thereafter i.e., after the murder of the deceased, accused No.1 (respondent No.1 herein) is not entitled for a regular bail. A strong case is made out against accused No.1 (respondent No.1 herein) by CBI. Also, though it is contended that it is not accused No.1 (respondent No.1 herein) who offered any amount for taking the blame and it is not accused No.1 (respondent No.1 herein) who participated in any of the subsequent events which resulted for the delayed investigation, this Court is of the view that when accused No.1 (respondent No.1 herein) is part of larger conspiracy, his role in the subsequent events cannot be secluded and looked in isolation.

53. A meticulous glance of entire material that is brought on record leaves the Court to wonder, however without

expressing any opinion on merits, but based on the version of CBI, as to why blood stains at the scene offence were cleaned under the supervision of accused No.1 (respondent No.1 herein) and accused No.5-D.Siva Shankar Reddy. As to why the body of the deceased was dressed up keeping the doors of the room bolted. As to why Circle Inspector-Shankaraiah did not raise any objection while alleged happenings continued. As to why a Police officer in the rank of Circle Inspector could not *prima facie* come to an opinion whether the place of occurrence depicts the natural death of the deceased or otherwise. As to why information was not furnished to the kith and kin of the deceased immediately. As to why without conducting even the inquest, the dead body was shifted. As to why huge amount was found at the locker of the close associate of accused No.4-Shaik Dasthagiri.

54. The version of CBI is that in the larger conspiracy, accused No.1 (respondent No.1 herein) along with accused No.5-D.Siva Shankar Reddy played a prominent role. The version of CBI is also that when CBI called accused No.4 and others to New Delhi, ten days prior to the date of their supposed appearance before CBI, accused No.5-D.Siva

Shankar Reddy called accused No.4-Shaik Dasthagiri to the house of Bayupu Reddy at Pulivendula and briefed him not to disclose their names. The version of CBI is also that one Bharath Yadav accompanied accused No.1 (respondent No.1 herein) on his visit to New Delhi, as per the instructions of accused No.5-D.Siva Shankar Reddy, to keep a watch.

55. The prosecuting agency with well reasons has explained the close association of accused No.1 (respondent No.1 herein) and accused No.5-D.Siva Shankar Reddy. Therefore, sound suspicion exists with regard to their fairness in co-operating with the investigating agency for fair investigation.

56. As observed by the Hon'ble Apex Court in the case between **Sanjay Gandhi** (referred 4<sup>th</sup> supra), the prosecution can establish its case in an application for cancellation of bail by showing preponderance of probabilities that the accused has attempted to tamper or has tampered with its witnesses. Their Lordships held that proving by the test of balance of probabilities that the accused has abused his liberty or that there is a reasonable apprehension that he will interfere with the course of justice is all that is necessary for the

prosecution to do in order to succeed in an application for cancellation of bail

57. Thus, having regard to the grounds projected by CBI and as it is pointed out convincingly that the presence of accused No.1 (respondent No.1 herein) outside itself sends a signal to the witnesses to shut their mouths, this Court is of the view that the liberty granted to accused No.1 (respondent No.1 herein) has to be curtailed to enable CBI to proceed with the investigation. However, this Court has considered the fact that accused No.1 (respondent No.1 herein) is enjoying the liberty granted through the default bail since 27.6.2019. Also, this Court has taken note of the fact that CBI could not conclude the investigation despite of lapse of considerable time from the date of the incident.

58. Having considered all the above aspects and with an intention to facilitate CBI to conclude its investigation in a fair and effective manner, the request of CBI is honoured.

59. Resultantly, this Criminal Petition is allowed. Accused No.1 (respondent No.1 herein) is directed to surrender on or before 05.5.2023. On his surrender, he shall be remanded to

judicial custody till 30.6.2023 which is the outer limit fixed by the Hon'ble Supreme Court for completion of investigation by CBI vide Orders in Criminal Appeal No.1251 of 2021, dated 24.4.2023. In case, accused No.1 (respondent No.1 herein) fails to surrender before the Court concerned on or before the said date, CBI is at liberty to take him into custody as provided under law and produce him before the Court of Principal Special Judge for CBI Cases, Hyderabad. The Court of Principal Special Judge for CBI Cases, Hyderabad, is directed to enlarge the petitioner on bail on 01.7.2023, on his executing a personal bond for a sum of Rs.1,00,000/- (Rupees One lakh only) with two sureties for the like sum each to the satisfaction of the said Court.

---

**Dr. JUSTICE CHILLAKUR SUMALATHA**

27.4.2023

Note:

LR copy to be marked.

B/o

*dr*