

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

Criminal Application No. 38 of 2020

Nafisa Nisar Surve

Aged 53 years, Occ. Housewife,

R/at. Village Shavitar Budruk,

Taluka Khed, District Ratnagiri

...Applicant

Vs.

1. The State of Maharashtra

(At the instance of Senior Inspector
of Police, Khed Police Station, vide
F.I.R. No.I-269 of 2016)

2. Wasif Daud Hamdule

Aged about 31 years, Occ. Service,

R/at. Shirshi Mohalla, Taluka Khed,

District Ratnagiri.

...Respondents

Ms. Akshata Desai i/b. Mr. Nitin Sejpal, for the Applicant.

Mr. Swapnil S. Pednekar, APP for Respondent – State.

Coram: R. N. Laddha, J.

Date: 11 October 2024

P.C.

. Heard Ms. Akshata Desai, the learned Counsel appearing on behalf of the applicant and Mr. Swapnil Pednekar, the learned Additional Public Prosecutor, representing the respondent /State.

2. The applicant has preferred this application seeking cancellation

of bail granted to the accused/respondent No.2, by the learned Additional Sessions Judge, Khed, by an order dated 1 January 2020, in connection with C.R. No.269 of 2019, registered at Khed Police Station, for the offences punishable under Sections 304(B) and 201 read with 34 of the Indian Penal Code.

3. The applicant contends that the learned Additional Sessions Judge did not examine the substantive merits of the prosecution's case when granting bail. In this context, a profitable reference can be made to the decision in ***Puran v. Rambilas***¹, wherein it was enunciated that at the preliminary bail stage, the Court should not undertake a detailed examination of the evidence and elaborate documentation of the merits of the case. The primary consideration lies in the *prima facie* scrutiny of the material on record. Furthermore, once granted, the bail should not be cancelled without compelling or extraordinary circumstances, such as the risk of jeopardising a fair trial, as highlighted in ***Dolat Ram v. State of Haryana***², wherein the Hon'ble Supreme Court observed as follows:

“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

1 (1995) 1 SCC 349

2 (2001) 6 SCC 338

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.”

4. Furthermore, in ***Himanshu Sharma v. State of Madhya Pradesh***³, it was observed that bail granted to an accused can only be cancelled, if the Court is satisfied that after being released on bail: (a) the accused has misused the liberty granted to him; (b) flouted the conditions of bail order; (c) that the bail was granted in ignorance of statutory provisions restricting the powers of the Court to grant bail; (d) or that the bail was procured by misrepresentation or fraud. Upon perusing records, it appears that alleged offence was committed in 2019. During the intervening period, investigation was completed, and the charge sheet has been filed. There is nothing on record to suggest that the accused interfere with the prosecution’s evidence or sought to influence the witnesses. Furthermore, the records do not indicate that the accused has misused the bail concession that was granted to him. The learned Additional Sessions Judge, in accordance with legal principles, rightly refrained from addressing the merits of the case, limiting his examination to the *prima facie* material available. In addition to the above, it is evident to note that the investigation has been concluded,

3(2024) 4 SCC 222

and the charge sheet has been filed. At this stage, there is no new or compelling ground presented that would justify the revocation of bail, nor any post bail development that could indicate a misuse of the liberty granted or any interference with the legal process. In view of the above, this Court is not inclined to grant the request of cancellation of bail.

5. As a result, the application stands rejected.

R. N. Laddha, J.