

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

**CRIMINAL APPLICATION NO.720 OF 2018
IN
CRIMINAL BAIL APPLICATION NO. 589 OF 2017**

The State of Maharashtra ... Applicant
Versus
Akash Anil Potghan and Anr. ... Respondents

**WITH
INTERIM APPLICATION NO. 1154 OF 2024
IN
CRIMINAL BAIL APPLICATION NO. 589 OF 2017**

Akash Anil Potghan ... Applicant
Versus
The State of Maharashtra ... Respondent

**WITH
INTERIM APPLICATION NO. 1130 OF 2024
IN
CRIMINAL BAIL APPLICATION NO. 589 OF 2017**

Omkar Raju Chaudhari ... Applicant
Versus
The State of Maharashtra ... Respondent

.....

Mr. A.A. Palkar, APP, for the Applicant in Criminal Application No. 720 of 2018 and for the Respondent in Interim Application Nos. 1130 of 2024 and 1154 of 2024.

Mr. Satyavrat Joshi a/w Mr. Ajay Gawali i/b Sakshi S. Mane, for the Respondents in Criminal Application No. 720 of 2018 and for the Applicants in Interim Application Nos. 1130 of 2024 and 1154 of 2024.

.....

REKHA
PRAKASH
PATIL

Digitally signed by
REKHA PRAKASH
PATIL
Date: 2024.04.19
11:23:55 +0530

Rekha Patil

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 17th APRIL, 2024.

P.C.

This is an application seeking cancellation of bail granted by this Court on 12th October, 2017 in respect of CR No. 500 of 2015 registered with Pimpri Police Station, Pune, for the offences punishable under Sections 302, 120B, 506(2) r/w 34 of the Indian Penal Code, under Sections 3(25), 5(25) of the Arms Act, under Section 37(1) r/w 135 of the Bombay Police Act and under Sections 3(1)(i), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act, 1999 (“MCOC” Act).

2 At the outset, Mr. Palkar learned APP would argue that after the release of the applicants on bail in a serious case under MCOC Act, they had indulged in forging certain documents, namely, Adhar Cards and were attempting to meet co-accused in the said crime, who was lodged in the Yerwada Central Prison, Pune. Accordingly, a crime was registered bearing C.R. No. 11 of 2018 at the behest of the Jail Authorities, Yerwada Central Prison, Pune, for the offences punishable under Sections 420, 465, 467, 468, 471 r/w 34 of the Indian Penal Code.

3 Mr. Palkar would invite my attention to the First Information Report (“FIR”) lodged by Chhaya Kama Tambe, who is a Jail Guard at Yerwada Central Prison. It appears that both the applicants impersonated as Akash Anil Potghan and Omkar Vijay Bhigvankar by forging the Adhar Cards.

4 No doubt, prima facie, it appears that after their release on bail, both the applicants have indulged in the offence of forgery and cheating. The matter has been investigated and the charge-sheet has been filed. According to Mr. Palkar, since the applicants have misused the liberty granted in their favour, order of bail needs to be cancelled.

5 On the other hand, Mr. Joshi, learned Counsel for the applicants submits that it took five years for the prosecution to take the matter on board ever since another offence came to be registered against the applicant way back in the month of June, 2018. The prosecution could have taken steps to ensure cancellation of the bail immediately after registration of another offence.

6 Mr. Joshi would also submit that kingpin of the organized crime syndicate viz. Amol Vahile has already been released on bail by this Court on 12th February, 2024 wherein this Court (Coram: N. R. Borkar, J.) by placing reliance on a judgment in case of **Ashutosh A. Butte-Patil vs. The State of Maharashtra**¹ observed that the restriction under Section 21(4) of the MCOC Act would not be an impediment in granting bail due to prolonged incarceration of accused without completion of trial. The kingpin of the organized crime syndicate has been in jail for more than eight years.

7 Coming back to the case in hand, since the prosecution itself has delayed in prosecuting the application seeking cancellation of bail in light of registration of another offence against the applicants in 2018, it would not be just and proper to detain them till the trial would be brought to its logical end. It seems that the prosecution was not diligent in seeking cancellation of bail even for a period of about five years. It is a settled principal of law that bail once granted should not be cancelled merely on asking unless there are compelling reasons. The applicants would face the trial both in respect of Crime No. 500 of 2015 in which they have been granted bail as well as subsequent crime registered with Yerwada Police

¹ B.A.No.312 of 2021 decided on 19.10.2022

Station bearing No. 11 of 2018.

8 For the aforesaid reasons, I do not see any reason to grant the prayer of the prosecution and hence, the application seeking cancellation of bail stands rejected.

9 The applicants- Akash Anil Potghan and Omkar Raju Chaudhari be released on furnishing fresh PR bonds in the sum of Rs.30,000/- each with one or two sureties in the like amount.

10 The applicants shall attend the trial Court on each date.

11 The applicants shall attend Pimpri Police Station once in fifteen days on every Monday between 10:00 a.m. to 12:00 p.m. till the conclusion of trial.

12 All the applications are disposed of.

[PRITHVIRAJ K. CHAVAN, J.]