

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

Criminal Application No.144 of 2024

Ulka Chandrasekhar Nair
Age: 67 years, Occ: Business,
Indian Inhabitant of Mumbai
R/a Gunvant Villa, 7 Bungalows,
Versova, Andheri West, Mumbai-400 061. ... Applicant.

Vs.

1. Meghraj Sohanlal Jain
Age: 52 years, Occ: Business, Hindu,
Indian Inhabitant, R/at 402,
Sheela Niwas, 4th Floor, Opp.Post
Office, Ramabai Chemburkar Marg,
Vile Parle (East), Mumbai-400057.
2. The State of Maharashtra
Versova Police Station, Mumbai,
Through Public Prosecutor,
HighCourt, Mumbai. ... Respondents.

Mr Vikas Saindane i/by Ghanshyam Sakpal for the applicant.
Mr Pankaj Jain a/w Tejashree Kamble a/w Pradeep Purohit for
respondent No.1.
Mr Amit Palkar, APP for respondent No.2/State.

Coram : R.N.Laddha, J.

Date : 15 October 2024.

P.C. :

Heard Mr Vikas Saindane, the learned Counsel

appearing on behalf of the applicant; Mr Pankaj Jain, the learned Counsel for respondent No.1, and Mr Amit Palkar, the learned Additional Public Prosecutor, representing the respondent No.2/State.

2. Applicant has preferred this application seeking cancellation of bail granted to the accused/respondent No.1, by the learned Additional Sessions Judge, Borivali Division, Dindoshi, Mumbai, by an order dated 22 December 2023, in connection with CR No.566 of 2023 registered with Versova Police Station, for the offences punishable under Sections 420, 467, 468, 471 r/w 34 the Indian Penal Code (IPC).

3. The applicant's contention is that the learned Judge did not consider the material available on record and failed to delve into the substantive merits of the prosecution's case at the time of granting pre-arrest bail.

4. In this context, a profitable reference can be made to the decision of *Puran v. Rambilas*¹, wherein it was enunciated that at the preliminary bail stage, the Court should not undertake a detailed examination of the

1 (1995)1 SCC 349.

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 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

2 (2001)6 SCC 338

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.”

5. Furthermore, in ***Himanshu Sharma v. State of Madhya Pradesh***³ it was held that,

‘11. Law is well settled by a catena of judgments rendered by this Court that the considerations for grant of bail and cancellation thereof are entirely different. 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.*

In the present case, none of these situations existed.”

6. Upon perusing records, it appears that alleged offence was registered in 2023. During the intervening period, the investigation was completed. The learned APP,

³ (2024) 4 SCC 222.

acknowledges that the alleged forged documents have been recovered. The learned APP, submits that the investigation has been concluded, therefore, the custodial interrogation of the applicant is not required. The applicant has attended the concerned police station and cooperated with the investigation. That apart, there is nothing on record to suggest that the accused interfered or attempted to interfere with the investigation. The records, do not indicate that the accused has misused the bail concession granted to him. The Additional Sessions Judge, in accordance with the legal principles, appropriately refrained from entering into the merits of the case confining his adjudication to the prima facie material available. As the investigation is concluded, all the relevant documents are in possession of the investigating agency, prosecution is not seeking custody, and in absence of new compelling grounds that would warrant the revocation of bail and given no post-bail conduct suggesting misuse, this Court is not inclined to entertain the request for revoking bail.

7. In light of above, the application stands rejected.

[R. N. Laddha,J.]