

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 30 OF 2024**

Ajgar Akhtar Khan	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Ms. Misbaah Solkar a/w. Mr. Gaurav Shenoy for applicant.

Mr. Babu V. Holambe-Patil, APP for respondent-State.

**CORAM : MANISH PITALE, J.
DATE : 16th AUGUST, 2024**

P.C. :

1. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. This application seeks setting aside order dated 25.08.2023 passed by the Judicial Magistrate First Class, Vasai (JMFC), whereby bail granted to the applicant as per order dated 30.05.2023, was cancelled.

3. The primary reason for cancellation of bail was that after the bail was granted to the applicant, upon approval being granted by the competent authority, offences under the Maharashtra Control of Organized Crime Act, 1999 (MCOCA), were added. Upon the said offences being added, the JMFC thought it fit to cancel the bail granted to the applicant.

4. The learned counsel for the applicant has tendered a copy of judgment and order dated 20.12.2023 passed by the Division Bench of this Court in

Criminal Writ Petition No.3150 of 2023, whereby the Division Bench allowed the writ petition and quashed the order of approval, whereby offences under MCOC were added. The copy of order is taken on record and marked 'X'. It is submitted by the learned counsel for the applicant that since the very basis of the order cancelling bail, has been taken away, this Court may consider allowing this application and setting aside the order dated 25.08.2023 passed by the JMFC.

5. The learned APP submitted that in the present case, the bail was cancelled not only on the ground that offences under the MCOC were added, but also because the applicant did not abide by condition No.3 imposed in the order dated 30.05.2023, whereby the applicant was granted bail. The said condition required the applicant to remain present in the concerned police station on every Sunday till filing of chargesheet.

6. A perusal of the order dated 25.08.2023 shows that the JMFC took specific note of the fact that the offences under the MCOC were added, in pursuance of approval granted by the competent authority and this appears to be the primary reason for cancellation of bail. It is undisputed that the approval order itself has been set aside and therefore, offences under the MCOC are no longer in existence, insofar as the present case is concerned. There is substance in the contention raised on behalf of the applicant that the very basis of order dated 30.05.2023 is taken away by judgment and order dated 20.12.2023 passed by the Division Bench of this Court in Criminal Writ Petition No.3150 of 2023.

7. As regards cancellation of bail also on the ground of failure on the part of the applicant in abiding by condition No.3 in order dated 30.05.2023,

suffice it to say that paragraph No.4 of the order dated 25.08.2023 does not render specific finding in that regard. The only statement made is that the advocate appearing for the accused has not filed any documentary evidence of the applicant attending the police station on every Sunday.

8. This Court is of the opinion that so long as the applicant undertakes and continues to abide by the order dated 30.05.2023 passed by JMFC, the present application can be allowed.

9. In view of the above, the application is allowed and the order dated 25.08.2023 passed by JMFC, whereby bail was granted to the applicant, is set aside.

10. The applicant shall abide by and scrupulously follow all the conditions imposed by the JMFC in the order dated 30.05.2023, while granting bail.

11. The application is disposed of.

(MANISH PITALE, J)

Priya Kambli