

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

**VASANT
ANANDRAO
IDHOL**

CRIMINAL APPLICATION NO. 754 OF 2024

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Rahul @ Dayanand Rambhavan Tripathi	...Applicant
Versus	
State Of Maharashtra And Anr.	...Respondents

Mr.Anand Mishra with Mr.Sushil Upadhyay for the Applicant.

Ms.Rajeshree V. Newton, APP for the Respondent – State.

Mr.Abdul Hafeez Kotwala i/b Sumaira Legal Associates for the Respondent No.2.

Mr.Vinayak Jadhav, API, Nayanagar Police Station present.

CORAM	:	AVINASH G. GHAROTE, J.
DATE	:	19th JULY 2024

P.C.:

1. Heard Mr.Mishra, the learned counsel for the Applicant, learned APP appears for the State. Mr.Kotwala, the learned counsel appears for the victim.

2. The application seeks to challenge the order dated 17.05.2024, by which the learned Sessions Court allowed the application filed by respondent No.2 for cancellation of the bail granted to the applicant vide order 13.05.2022 on the ground that condition no.(d) therein, was violated by the applicant. It is

submitted that, the cancellation is based upon a false plea by the respondent No.2 , that the applicant, had sent obscene messages to her, however, there is no date mentioned in the application at page 100.

3. What is material to note is that, upon the application for cancellation being filed, it was necessary for the learned Sessions Judge, to have obtained the say of prosecution to ascertain whether any complaint has been filed in this regard and any investigation is done in respect thereof. From the perusal of the impugned order, it appears that without the say of the prosecution, the bail came to be cancelled, holding that there was violation of condition no.(d) of the bail order dated 13.05.2022. The impugned order in paragraph 6, for this relies only, upon some photographs in the mobile of the victim , which were shown to the female staff present in the Court, on whose statement the cancellation has been ordered.

4. The learned counsel for the applicant points out that, on account of the complaint lodged by the respondent No.2, regarding an incident dated 24.04.2022, alleging that the applicant had sent her obscene message on her mobile, an NC

was registered on 25.05.2022 (84). He further submits that the applicant, on the other hand, was arrested on 18.04.2022 in CR 255 of 2022 and was granted bail on 13.05.2022 by the Additional Sessions Judge, Thane, and therefore, could not have sent the obscene messages on 24.04.2022 when he was in custody. Even otherwise, as this was the position, what was necessary for the learned Additional Sessions Judge, was to, at least call for the report of the investigation made in pursuance to the complaint lodged by respondent No.2 before passing the impugned order dated 17.05.2024, which does not appear to have been done.

5. On a query made by this Court to the learned counsel for the applicant, it is submitted that an investigation has been done, however that is post the order dated 17.05.2024 on account of which, the same cannot be sustained and is hereby quashed and set aside. The matter is remitted back to the learned Sessions Court to decide the application afresh, on the basis of the investigation made by the Police Authority consequent to the complaint filed by respondent No.2 against the applicant. In view of this position, the applicant shall be released on bail on the

same terms and conditions as per the order dated 13.05.2022 till such time, the application for cancellation is decided afresh by the Sessions Court. The application is therefore allowed in aforesaid terms.

(AVINASH G. GHAROTE, J.)