



(1)

22-WP-5-2025

IN THE HIGH Court OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 5 OF 2025

1] **Rakesh s/o. Ravindra Suryawanshi**

Age: 45 years. Occu: Nil.

R/o. Rajapura Galli, Tq. Paranda,

Dist. Osmanabad.

...PETITIONER

VER S U S

1] **The State of Maharashtra**

Through Police Station Incharge

Paranda Police Station, Dist. Dharashiv

2] **Dr. Anand Gorakh More**

Age: 45 Yrs. Occu: Medical Practitioner

R/o. Ambedkar Chowk, More Hospital

Paranda, Dist. Dharashiv.

...RESPONDENTS

Mr. Abhijit S. More, Advocate for the petitioner.

Mr. R. B. Dhaware, Advocate for Respondent No.1.

Mr. Ganesh V. Mohekar, Advocate for Respondent No.2.

CORAM : KISHORE C. SANT, J.

RESERVED ON : 13th AUGUST 2025.

PRONOUNCED ON : 26th AUGUST 2025.

ORDER :-

1. Heard Mr. More, the learned Advocate for the petitioner, Mr. Dhaware, Learned APP for Respondent No.1-State, and Mr. Mohekar, learned Advocate for Respondent No.2.
2. The petitioner, original accused, has approached this Court challenging an order dated 24th December 2025, passed by the learned Additional Sessions Judge, Paranda, Dist. Dharashiv, below Exh.1 in Criminal Misc. Application No.4 of 2024, cancelling bail granted to him.
3. The facts, limited for the purpose of considering this writ petition, are as below: the petitioner is an accused in a trial for the offences under Sections 324, 323, 353, 504, 506, 294 r/w 34 of the Indian Penal Code, 1860. The informant-Respondent No.2 is the Medical Officer, who lodged the First Information Report (FIR) on 28th January 2023 with Paranda Police Station Dist. Dharashiv.
4. It is alleged that the present petitioner-accused entered the Sub District Hospital, Paranda, and assaulted the informant on account of some dispute between the informant and the wife of the accused, who

also works as a Medical Officer in the said hospital. Though initially Section 353 of IPC was not added, it was added at the time of filing of a charge-sheet. The petitioner applied for anticipatory bail. The same was granted by allowing the Bail Application No.81 of 2023 vide order dated 11th December 2023, on certain conditions. One of the conditions was not to enter the premises of Sub District Hospital, Paranda where the informant works. On the allegation that, the petitioner flouted this condition of not entering the premises of Sub District Hospital, Paranda, an application came to be filed bearing Criminal Misc. Application No.4 of 2024 for cancellation of bail. The said application was partly allowed by order dated 24th December 2024.

5. An application bearing Criminal Application No.02 of 2024 was earlier filed by the informant before the learned Additional Sessions Judge, Paranda, seeking cancellation of bail on the ground that the petitioner had flouted the condition. It is alleged that on 27th December 2023, he entered the premises of Sub District Hospital, Paranda without permission of the Court. The informant had taken the photographs and

filed those photographs alongwith a certificate under Section 65B of the Evidence Act and an Affidavit. The learned Sessions Judge rejected the said application, observing that the letter issued by the Superintendent of Hospital dated 2nd January 2024, there is no mention that the accused had been to the hospital on 27th December 2023. There was also no allegation that the accused had contacted or tried to pressurize the informant at any time. Recording that the allegations are vague. The application came to be rejected by order dated 7th March 2024.

6. The informant again filed an application bearing Criminal Misc. Application No. 04 of 2024. It is alleged that on 12th June 2024, the accused entered the premises of Sub District Hospital, Paranda, without permission of the Court. There is CCTV footage showing that the accused had been to the hospital. A certificate under Section 65B was also filed alongwith an affidavit. It is stated that recording of the said CCTV footage is copied and taken in pen-drive. This time, the learned Sessions Judge found substance in the allegation by the informant. The Court relied upon certificate under Section 65B and footage that was

taken in the pen-drive was seen by the Court and on that basis, the bail came to be cancelled by the learned Sessions Judge vide order dated 24th December 2024. Thus, the petitioner is before this Court.

7. The learned Advocate for the petitioner, Mr. More, vehemently submits that for cancellation of bail, overwhelming circumstances are required to be shown. In the present case, no such circumstances are pointed out. The alleged footage in the pen-drive was not made available to the present petitioner. Therefore, the petitioner could not challenge the said CCTV footage. The bail could not have been cancelled in such manner. It is submitted that an inquiry ought to have been made before recording a conclusion that the accused has flouted the condition. It is also submitted that a certificate under Section 65B is not in format. The certificate is given by the informant himself and that cannot be relied upon.

8. In support of his submissions, the learned Advocate for the Petitioner relied upon the judgment in the cases of **Anvar P V Vs. P K**.

Basheer and Ors.¹; Doalt Ram vs. State of Haryana² and Rajiya Vs. State of Haryana³.

9. The learned Advocate for the Respondent No.2, Mr. Mohekar, vehemently opposed the writ petition. He submits that in the present case, a clear case is made out showing that the petitioner has flouted the condition imposed by the Court while granting bail. The conditions, while allowing the bail application are imposed specifically in the interest of justice and to ensure that there is no misuse of liberty granted to the accused. There is a sanctity to the condition imposed by the Court. Flouting such condition, cannot be taken lightly. If no action is taken for flouting of condition, would result in miscarriage of justice.

10. In the present case, not only has the conditions been flouted, but the allegation shows that by flouting the condition the accused has tried to pressurize the informant. It is stated in the application itself that the accused tried to pressurize the informant. He has not only entered the premises but also visited few rooms in the hospital. He thus support the

1 2015(2) MhLJ 135

2 1995(1) SCC 349

3 2023:PHHC:164447

order passed by the learned trial Judge.

11. In support of his submissions, the learned Advocate for the Respondent No.2 relied upon the order passed by this Court at Nagpur Bench in Criminal Revision Application No.51 of 2021 in the case of ***Raju @ Rajesh s/o. Malhari Salunke Vs. Gyanendra Darbalilal Kashuwah and Ors.***

12. The learned APP also supports the order passed by the trial Court.

13. In the case of ***Anvar P. V. Vs. P. K. Basheer and Ors.*** (supra), The Hon'ble Apex Court has laid down conditions required to be satisfied pertaining to electronic record under Section 65B(4) of the Evidence Act. Paragraph 14 of the said judgment reads as under:

“14. Under Section 65B(4) of the Evidence Act, if it is desired to give a statement in any proceedings pertaining to an electronic record, it is permissible provided the following conditions are satisfied:

(a) There must be a certificate which identifies the electronic record containing the statement;

(b) The certificate must describe the manner in which the electronic record was produced;

(c) The certificate must furnish the particulars of the device involved in the production of that record;

(d) the certificate must deal with the applicable conditions mentioned under Section 65B(2) of the Evidence Act; and

(e) The certificate must be signed by a person occupying a responsible official position in relation to the operation of the relevant device.”

14. In the present case, the accused has not shown as to who was the authority to issue certificate under Section 65B of the Evidence Act. Merely stating that the informant was not the authority to give certificate is not sufficient. If the petitioner had any doubt about the authority or the format of 65B certificate, he should have specified the appropriate authority to issue such certificate in respect of Sub District Hospital.

15. Paragraph No.3 in the case of ***Doalt Ram Vs. State of Harayana***⁴ (supra), reads as under:

“3. 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

4 1995(1) SCC 349

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. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non-bailable case in the first instance and the cancellation of bail already granted.

16. In the case of ***Doalt Ram*** (supra), though it is held that cogent material and circumstances are necessary to cancel bail like interference or attempt to interfere with the due course of administration of justice, evasion or attempt to evade 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, regarding the possibility of the accused absconding, is yet another reason justifying the cancellation of bail.

17. In the case of ***Rajiya Vs. State of Haryana*** (supra), it is observed that mere violation of a condition alone is not sufficient to cancel bail granted by the Court. Before taking a decision, the Court has to conduct a summary inquiry based on record, including the documents relating to

the subsequent crime, and arrive at a conclusion as to whether it is necessary to cancel the bail or not. This Court finds that there is nothing in the law which requires an inquiry in the matter cancellation of bail. Excepting inquiry, in such matter, will have the effect of frustrating the object of cancellation of bail. What needs to be seen in such matters in view of judgment in the case of ***Raju @ Rajesh Malhari Salunke*** (supra), is whether a person who enjoys liberty on the strength of order of the court is obeying the order of court. In this case, the Court considered the sanctity of the order passed by the court while granting bail. It is for this reason, this Court has reservations in accepting the judgment in the case of ***Rajiya Vs. State of Haryana*** (supra).

18. In the case of ***Raju @ Rajesh Malhari Salunke*** (supra), this Court at Nagpur Bench has considered that the condition put by a Court of law, while granting anticipatory bail, have legal sanctity. They are not merely directory so as to be violated with impunity. It is not merely for the sake of protecting the liberty granted to such person. This Court is not document with the further observation that each and every condition

imposed by the Court while granting anticipatory bail/regular bail is mandatorily to be followed by the person who is receiving the benefit of liberty. The beneficiary must obey the conditions. It is for a person to unscrupulously follow and adhere to the condition upon which he has secured the liberty from the Court.

19. This Court has heard the parties. From the material following things appear on record: the petitioner was released on bail by order dated 11th December 2023 in Criminal Bail Application No.81 of 2023. One of the conditions in the said order was not to enter the premises of Sub District Hospital, Paranda, as the informant happens to be the Medical Officer in the said hospital. An application was filed bearing Criminal Misc. Application No.2 of 2024, with allegation that the petitioner flouted the condition by entering the premises on 27th December 2023. He submitted on record the photographs alongwith 65B certificate. Learned Sessions Judge, however, did not find sufficient material to substantiate the allegation made by the applicant. The Court considered the letter issued by the Superintendent of Hospital dated 2nd

January 2024 and observed that the allegations are not substantiated. This time, the learned Sessions Count found that the CCTV footage shows that the petitioner entered the premises of Sub District Hospital, Paranda and was seen visiting rooms in the hospital. The learned Sessions Judge founds substance in the allegation and cancelled the bail vide order dated 24th December 2024.

20. So far as submission of the petitioner that no sufficient opportunity was given to him to defend the application since the footage in the pen-drive was not given to him. It is seen that in the application itself the informant had mentioned about the CCTV footage in the pen-drive. The petitioner even answered to the said allegation by filing say. There is nothing to show that at any time, he requested a copy of such footage. The submission that the inquiry ought to have been held is also made. This Court finds that for cancellation of bail, no inquiry is contemplated under law. The Court is not expected to undertake the exercise of enquiry while deciding the application for cancellation of bail. Grant of bail is a matter of discretion, depending upon the satisfaction of the

Court that a case is made out. At that stage, except for the allegations and the grounds mentioned in the application for bail, not much material is available. While considering the application for bail, the Court naturally has to rely on whatever material is produced before it. It is not a stage to go into detailed scrutiny, as the Court is expected to look for evidence or proof which is required to be produced during the trial. It is sufficient to show that the Court has come to the conclusion that there is breach of condition or a case is made out for cancellation of bail. In the present case it is for breach of condition. Earlier application was rejected in view of letter of the Superintendent of Hospital. In the present case the application, the Court was satisfied on the basis of material.

21. In the present case, this Court finds that the Sessions Court clearly noted the conduct of the petitioner. It is seen that the learned Sessions Court is not satisfied that the petitioner had followed the conditions and it is thereafter passed the impugned order. While cancelling the bail, the Court also granted liberty to the petitioner to move for bail again after

the evidence of informant is over. This Court finds that order of Sessions Court is reasonable, as the Court has rightly passed an order only to secure the interest of justice and has rightly granted liberty to apply afresh, if required. This clearly shows application of mind of the Court. This Court does not find any reason to cause interference in the order. Writ petition is devoid of merits and the same deserves to be dismissed. Hence, the following order:

ORDER

Criminal Writ Petition stands dismissed and disposed off.

[KISHORE C. SANT, J.]

1. The learned Advocate for the petitioner prays for continuation of interim relief for further four weeks.
2. The prayer is opposed by the learned Advocate for the respondent.
3. However, since there is interim relief, same be continued for a period of four weeks from today.

[KISHORE C. SANT, J.]