



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 269 OF 2025
IN
CRIMINAL APPEAL NO. 238 OF 2024**

X.Y.Z.

...APPLICANT
(Orig. Complainant)

VERSUS

1. The State of Maharashtra
Through the Superintendent of Police,
Chh. Sambhajinagar.
2. The Investigating Officer,
Police Station Shivur, Tq. Vaijapur,
Dist. Chh. Sambhajinagar.
3. Kailash Sonyabapu Bhagat,
Age; 48 years, Occ; Agri,
R/o; Chikatgaon, Tq.Vaijapur,
Dist. Chh. Sambhajinagar.

...RESPONDENTS
(Res. No. 3 is Orig. Accused)

...
Advocate for the Applicant : Ms. Manjushri V. Narwade (Appointed)
APP for Respondent Nos. 1 & 2-State : Ms. Uma S. Bhosle
Advocate for Respondent No. 3 : Mr. V.R. Dhorde
...

CORAM : SUSHIL M. GHODESWAR, J.

DATE : 18.11.2025

PER COURT :

1. Heard the learned Advocate for the applicant/prosecutrix.
2. The applicant is praying for cancellation of bail granted to

respondent No. 3, vide Criminal Appeal No. 238 of 2024 on 03.05.2024 in Crime No. 30 of 2024, which was registered on 30.01.2024 with Police Station Shivur, Taluka Vaijapur, District Chh. Sambhajanagar, for the offence punishable under Sections 376, 323, 504, 506 read with 34 of the Indian Penal Code and under Section 3(1)(w)(i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. For short ("Atrocity Act").

3. According to the applicant/victim she had gone to Tahsil Office, Chhatrapati Sambhajanagar for her some work and came into contact with one Ganesh Balu Nighut. On 29.01.2024, said Ganesh made a phone call to her and asked her to come alongwith documents at Talwada. Since certain dispute of her property was going on and said Ganesh had assured her to render some help therefore, she went to Talwada at 6.00 p.m and met Ganesh. Said Ganesh asked her to seat in one white colour Car, in which another person was already present. In same car, they proceeded towards Bhawani Mandir. After some distance, Ganesh alleged to have stopped the at one place. Another person namely Kailas Bhagat (Respondent No. 3) alighted from the said Car and alleged to have insisted Ganesh to pull the prosecutrix out of the Car and remove her cloths. Thereafter, Kailas Bhagat and Ganesh assaulted the prosecutorix by slaps and fists and also abused in the name of her caste. The applicant/victim also alleged that said Ganesh sexually assaulted her in the vehicle. Then she was at left the Shivur Bunglow and both the

accused alleged to have threatened her if she discloses the said incident to anybody, they will finish her. Thereafter, she lodged a report.

4. Thus Crime bearing No. 30 of 2024 at Police Station Shivur, Tq. Vijapur, District Chhatrapati Sambhajanagar for the offence punishable under Sections 376, 323, 504, 506, read with Section 34 of the Indian Penal Code and 3(1)(w)(i) of the Atrocity Act came to be registered. Thereafter, respondent No. 3 has filed a bail application bearing No. 49 of 2024 before the learned Sessions Judge, Vijapur, which came to be rejected by the said Sessions Court and thereafter he filed Criminal Appeal bearing No. 238 of 2024 before this court.

5. Vide order dated 11.03.2024 respondent No. 3 Kailas Bhagat was granted ad-interim protection by this Court and thereafter, vide order dated 03.05.2024, this Court while allowing the appeal was pleased to confirmed the interim protection granted to the appellant. The applicant/prosecutrix thereafter appears to have filed N.C. report dated 08.05.2024, 26.05.2024 and 28.09.2024 to the different police stations alleging that respondent No. 3 after aforesaid order dated 03.05.2024 of granting bail to him started threatening the Complainant for withdrawing her complaints against him. Therefore, on these grounds she has approached this Court for cancellation of bail granted to respondent No. 3. She further submitted that respondent No. 3 has violated the terms imposed upon him vide order dated 03.05.2025 in

Criminal Appeal No. 238 of 2024 of not tampering the prosecution witnesses. On the said ground she is praying for cancellation of bail granted to respondent No. 3.

6. Heard learned APP for the respondent-State, who is supporting to the prosecutrix.

7. I also heard learned Counsel for respondent No. 3 who has strongly opposed the relief sought by the applicant/prosecutrix as regards cancellation of bail.

8. He has invited my attention towards the complaint which is registered as NCR No. 460 of 2024 dated 08.05.2024. The said complaint is registered at Police Station Pundlik Nagar, Aurangabad City. It is registered as per the incident dated 03.05.2024 allegedly took place in the High Court premises. He submits that the said complaint is filed after the delay of 5 days and it is absolutely false complaint as there was no occasion of respondent No. 3 to meet the Complainant and threaten her to withdraw her complaints. He further contended about the second complaint of threatening which is registered vide NC NO. 1013 of 2024 on 28.09.2024. Again the said incident of 27.09.2024 is reported on 28.09.2024. The said incident alleged to have taken place near Harsul lake at Jatwada, District Chh. Sambhajinagar, wherein respondent No. 3 alleged to have again threatened to withdraw her

complaints. Again similar complaint NCR No. 727 of 2024 is filed at Police Station Cantonment, in Chh. Sambhajanagar city.

9. It appears that the Complainant is by lodging frivolous complaints against respondent No. 3 is trying to create evidence/record to cancel the bail granted to respondent No. 3. This conduct of filing frivolous complaints against Respondent no 3 is nothing but an attempt to seek cancellation of bail granted to Respondent No. 3. Even otherwise this court while granting bail to Respondent no. 3 in its order dated 03.05.2024 was pleased to observe that allegation of slapping and misbehaving with her appears to be doubtful as there is no justification as to why Respondent no. 3 who is unknown to her would suddenly start beating.

10. Recently the Hon'ble Supreme Court in **State of Karnataka v. Darshan and Ors.** reported in Criminal Appeal No. 3528 - 3534 of 2025 (Arising from SLP (Cri.) Nos. 516 – 522 of 2025) decided on 14.08.2025, has laid down a criteria for cancellation of bail. It is observed in paragraph No. 16 and 17 that,

“It is equally well established that the considerations for grant of bail and for its cancellation are not identical. While the grant of bail involves a preventive evaluation of the likelihood of misuse of liberty, the cancellation of bail entails a review of the prior decision - either on account of supervening circumstances or because the original order was legally flawed. As laid down in State (Delhi Administration) v. Sanjay Gandhi MANU/SC/0171/1978 : 1978 : INSC : 107 : (1978) 2

SCC 411 “Rejection of bail when bail is applied for, is one thing; cancellation of bail already granted is quite another”. This principle reflects a recognition of the sanctity of liberty once granted, and the requirement of compelling justification for its withdrawal.

17. However, it is equally well recognized that bail granted without due application of mind to relevant factors – such as the gravity of the offence, the strength of the evidence, or the conduct and antecedents of the Accused – may be cancelled. Even in the absence of subsequent misconduct, a bail order that is perverse, unjustified, or legally untenable is vulnerable to interference. In Dolat Ram v State of Harayana (supra), this Court held that “where a bail order is passed in disregard of material facts or in an arbitrary manner, it can be set aside”.

11. In view of aforesaid observation it is crystal clear that there are at all no any supervening circumstances to cancel the bail. Also there is no valid and trustworthy submissions pointing out that the order granting bail was legally flawed. Repeated and deliberate NC reports filed against respondent no. 3 particularly after grant of bail are nothing but an attempt by applicant to create record for cancellation of bail. Thus, the applicant/Complainant has failed to make out any sufficient ground for cancellation of bail granted to respondent No. 3. In that view of the matter, the application is rejected.

(SUSHIL M. GHODESWAR, J.)