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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.559 OF 2025

Abhishek Eknath Kadam,
Age-20 years, Occu-Education,
R/o. Mandavjali,
Tq. and Dist. Beed

-- APPELLANT

VERSUS

1. The State of Maharashtra
Through Officer in Charge,
Police Station, Dharashiv City,
Dist.Dharashiv (Osmanabad)

2. Koyna Satish Vitkar,
Age-40 years, Occu-Homemaker,
R/o Nagsen Nagar, Dhanora Road,
Beed, Tq. And Dist.Beed
Mob.No.7972710048

-- RESPONDENTS

Mr.S.J.Salunke, Advocate for the appellant.
Mr.G.O.Wattamwar, APP for the respondent/State.
Mr.D.R.Shelke, Advocate for respondent No.2

(CORAM : SUSHIL M. GHODESWAR, J.)

RESERVED ON : 23 SEPTEMBER 2025
PRONOUNCED ON : 04 OCTOBER 2025

J U D G M E N T :

1. The appellant is praying for quashing and setting aside the order passed by the learned Additional Sessions Judge and Special

Judge, Osmanabad in Criminal M.A.No.38/2025 dated 09.07.2025, by which order, the learned Additional Sessions Judge and Special Judge was pleased to cancel the bail granted to the respondent on 16.04.2025 in Cri.Bail Application No.136/2025, due to violation of conditions of bail, particularly condition Nos. 3 and 4 of the said order.

2. The learned Trial Court, vide its order dated 16.04.2025, was pleased to grant bail to the appellant in Crime No.120/2025, registered for the offence punishable u/s 108, 3(5) of the Bharatiya Nyaya Sanhita and Section 3(1)(r) of the Prevention of SC and ST Act and while granting the bail, put certain conditions to the appellant, which reads as under :-

[i] Bail Application No.136/2025 is hereby allowed.

[ii] The applicant/accused Abhishek Eknath Kadam in C.R.No.120/2025 of Dharashiv City Police Station shall be released on bail upon furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent and one local surety in the like amount.

[iii] The applicant/accused shall not temper with the evidence.

[iv] The applicant/accused shall attend concerned police station on every Saturday in between 10.00 a.m. to 12.00 p.m. till filing of the charge sheet.

[v] The applicant/accused shall not abscond and he should furnish his full residence address alongwith address proof of his two close relatives.

[vi] Applicant shall not repeat the offence while on bail and shall maintain peace and law and order.

[vii] Violation of any conditions imposed shall amount to cancellation of bail forthwith.

[viii] Bail before the concerned court.

[ix] Inform concerned police station accordingly.

3. The learned Sessions Court has observed in the order dated 09.07.2025 that the appellant has violated condition Nos.3 and 4 and therefore pleased to cancel the bail granted to the appellant. Therefore, the appellant has approached this Court for quashing and setting aside the said order.

4. On 16.04.2025, the learned Sessions Court was pleased to grant bail to the appellant in Crime No.120/2025. Vide Crime No.120/2025, the mother of deceased Sakshi has filed complaint with an allegation that due to abetment and instigation at the hands of the appellant and his sister, her daughter committed suicide. It is the case of the prosecution that the deceased and the appellant were having love

affair and they were taking education in the same educational institution. When the family of Sakshi got knowledge about the said love relationship, they decided to fix her marriage with another boy. However, even after her engagement, the appellant and his sister continued the harassment due to which, the deceased committed suicide.

5. In pursuance to the aforesaid crime, the appellant was arrested on 03.04.2025. He has filed Cri.Bail Application No.136/2025. The learned Sessions Court, while allowing the said bail application vide order dated 16.04.2025, was pleased to grant bail to the appellant on certain conditions, which are reproduced in paragraph No.2. Condition Nos.3 and 4, which are relevant for the purpose of adjudication of this petition are as under :-

[iii] The applicant/accused shall not temper with the evidence.

[iv] The applicant/accused shall attend concerned police station on every Saturday in between 10.00 a.m. to 12.00 p.m. till filing of the charge sheet.

6. According to the learned Advocate for the appellant, the learned Sessions Judge has wrongly observed that the appellant has

violated the conditions imposed upon him by the Court. According to the learned Advocate for the appellant, vague allegations of violation of conditions is alleged by the prosecution. Very strong and cogent circumstances are necessary for an order directing cancellation of bail. He further submits that once the bail granted should not be cancelled in mechanical manner. No cogent and overwhelming circumstances have been pointed out by the prosecution and there is no necessity to cancel the bail. According to him, the appellant has not violated any of the conditions. He has appeared before the concerned authority and co-operated the Investigating Officer on each and every date. As such, there is no breach of condition at the hands of appellant. He has further submitted that after grant of bail, the informant has filed various NC reports as regards threats given to them. Since the investigation is already over and charge sheet has been filed against the accused persons, the learned Sessions Court ought not to have cancel the bail granted to the appellant without furnishing any satisfactory reasons. Hence he prayed for quashing and setting aside the impugned order passed by the learned Sessions Court.

7. This Court, on 30.07.2025 has granted ad-interim relief to

the appellant in terms of prayer clause 'C' subject to condition that he shall appear before the Investigating Officer as and when called. During the course of hearing, the learned Advocate for the appellant submitted the judgment pronounced by this Court in the case of **Ajit Sonbhau Gawade Vs. The State of Maharashtra [2017 All MR (Cri.) 4263]**.

8. In order to respond to the allegation of the prosecution as regards absence of the applicant before the Investigating Officer, the learned Advocate for the appellant relying upon the said authority, submitted that in pursuance to the directions of the learned Sessions Court, he remained present before the Investigating Officer regularly, but on one occasion, he could not attend the Investigating Officer and the prosecution is not pointing out any prejudice caused to them due to such absence. As no such prejudice has been pointed out in the application for cancellation of bail, the ground of absence before the Investigating Officer is meaningless.

9. After going through the memo of the appeal and the submissions made by the appellant, it is clear that at one instance, he

was directed to attend the police station, However, the Investigating Officer in the instant case was S.D.P.O. to whom the investigation was handed over in view of the provisions of the Prevention of S.C. and S.T. Act. So he remained absent before the said authority instead of Police Station. Therefore, in such contingency, it cannot be said that he was absent by not attending the police station on the concerned date. Moreover, as pointed out by the learned Advocate for the appellant, the prosecution has not pointed out any hardship or difficulty caused to them due to such absence of the appellant before the Police Station or the Investigating Officer.

10. The learned Advocate for the appellant has also relied upon the judgment in the case of **Chandrashekar Rangrao Deshmukh Vs. State of Maharashtra and others** [2006 ALL.M.R. (Cri.) 2498 = 2006(5) Mh.L.J.711], wherein he has invited the attention of this Court to paragraph No.9, wherein it has been observed that the bail granted earlier cannot be cancelled on the basis of mere allegations unless truthfulness of the allegation is established. In the said judgment, reference of the Apex Court judgment in the matter of **Mehboob Dawood Shaikh Vs. State of Maharashtra**, 2004(1) Bom.C.R.(Cri.)(S.C.)

840 : 2004(2) S.C.C. 362 is made. In the said case, there were allegations in respect of threats and referring to that aspect, the Apex Court has observed in the judgment that mere assertion of alleged threat to witnesses should not be utilized as a ground for cancellation of bail, routinely. Otherwise, there is ample scope for making such allegation to nullify the bail granted. The Court before which such allegations are made should in each case carefully weigh the acceptability of the allegations and pass orders as circumstances warranting law. Such matters should be dealt with expeditiously so that actual interference with the ordinary and normal course of justice is nipped in the bud and an irretrievable stage is not reached.

11. The observations made by the Apex Court in the case of Mehboob (supra) are clearly attracted in the present case also. The conditions to be imposed while granting bail are contemplated u/s 437(3) r/w Section 439(1)(a) of the Cr.P.C. The question that arises here is whether a violation of the said condition should result in the cancellation of bail in all the cases. Merely because of the reason that such a condition was imposed while granting bail to the accused, that would not result in the cancellation of bail automatically. This is

particularly because, since the order of cancellation of bail is something that affects the personal liberty of a person, which is guaranteed under Article 21 of the Constitution of India, unless there are reasons justifying or warranting such an order, the bail already granted cannot be cancelled.

12. In **Dolat Ram and others Vs.State of Haryana (1995) 1 SCC 349**, the Hon'ble Supreme Court has observed as follows :-

“5. 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 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."

13. Likewise in **Dataram Singh Vs. State of Uttar Pradesh [(2018) 3 SCC 22 : (AIR 2018 SC 980)]**, it was observed by the Apex Court that very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail already granted. Generally speaking, the grounds for cancellation of bail 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 concessions granted to the accused in any manner.

14. In other words, 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.

15. In view of the above referred observations by the Hon'ble Apex Court, it is clear that the bail cancelled by the learned Sessions Judge on the basis of violation of the conditions alleged to have been put in clause 3 and 4 of the order dated 09.07.2025 needs to be quashed and set aside.

16. In view of the above, following is the order :-

- (a) The appeal is allowed.
- (b) The order passed by the learned Additional Sessions Judge and Special Judge, Osmanabad in Cri.M.A.No.38/2025 dated 09.07.2025 is hereby quashed and set aside.
- (c) The applicant Abhishek Eknath Kadam be released on bail, in Crime No.120/2025 registered with Dharashiv City Police Station, Dharashiv for the offences punishable u/s 108, 3(5) of the Bharatiya Nyaya Sanhita, 2023 and u/s 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities Act), 1989, on his furnishing PR bond of Rs.15,000/- (Rs.Fifteen Thousand only) with one solvent surety in the like amount.
- (d) The ad-interim relief granted by this Court vide order dated 30.07.2025 stands vacated. The learned Trial Court to proceed with

the hearing of the proceedings, as the charge sheet is already filed.

(e) The appellant shall attend each and every date of hearing as directed by the learned Trial Court.

(f) It is made clear that the observations made in this order are *prima facie* in nature for the purpose of adjudication of this appeal only.

17. The appeal stands disposed of accordingly.

(SUSHIL M. GHODESWAR, J.)