

Shabnoor

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

CRIMINAL APPLICATION NO.250 OF 2024

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Kavya Smriti Abhay Kumar Patel ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Amit G. Dubey i/b Mr. Ashok M Saraogi, for the applicant.

Mr. Sagar R Agarkar, APP for the State.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 14, 2025

P.C.:

1. The applicant has approached this Court challenging the order by which the opponent has been granted bail. The grievance of the applicant is that while granting bail, the concerned court has relied upon certain material which, according to the applicant, was wholly extraneous and irrelevant for deciding the question of bail. It is further alleged that certain material which was relevant and necessary for a just decision of the matter was either ignored or not considered at all.

2. In this context, it is necessary to note the observations of the Supreme Court in *Rashmi Rekha Thatoi v. State of Orissa*, (2012) 5 SCC 690. The Apex Court in paragraph 37 has held that a court of law must act strictly within the scope and limits of the power conferred upon it by statute, and cannot travel beyond such limits.

What cannot be done directly under the law cannot be permitted to be done indirectly by invoking some other form of jurisdiction. When a statute confers a specific power, the exercise of that power must be within the four corners of that statute. The exercise of statutory power is distinct from the exercise of the power of judicial review, which is available in a limited and different sphere. Similar principles have been reiterated by the Supreme Court in *Bay Berry Apartments (P) Ltd. v. Shobha*, (2006) 13 SCC 737, and *U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey*, (2006) 1 SCC 479.

3. In the present case, the applicant has invoked Section 439 of the Criminal Procedure Code, 1973, seeking to set aside the bail order passed in favour of the opponent. However, this Court is of the opinion that the scope of powers under Section 439 Cr.P.C. is confined to consideration of a bail application on its own merits. It does not extend to exercising a judicial review of the correctness or legality of an order passed by another court granting bail. Such a challenge, if permissible in law, must be brought before the appropriate forum by adopting the correct legal procedure.

4. Therefore, while the applicant may have legitimate grievances about the manner in which the bail was granted, those grievances cannot be addressed in the present proceedings under Section 439 Cr.P.C. The proper remedy for the applicant would be to initiate appropriate proceedings before the competent court or forum to challenge the impugned order of bail on the grounds available in law.

5. In view of the above discussion, and without going into the merits of the allegations raised in the application, all questions are kept open to be urged in appropriate proceedings. Accordingly, the present application is disposed of in the above terms.

(AMIT BORKAR, J.)