

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

CRIMINAL APPLICATION NO. 405 OF 2024

The State of Maharashtra

...Applicant

Versus

Chandrabhan @ Bhanu Vishwanath Khalade ...Respondent

Ms. Veera Shinde (through VC) a/w Mr. Pandurang H. Gaikwad,
learned A.PPs for the State/Applicant.

Mr. Shirish Gupte, learned Senior Counsel a/w Mr. Akshay Patani
(through VC), Mr. Chetan Arvind Alai and Ms. Rama Somani i/b
Mr. Varun Rajiv Joshi, learned Advocates for the Respondent.

CORAM : ASHWIN D. BHOBE, J.

DATE : 20th AUGUST 2025.

P.C. :

1. Heard Ms. Veera Shinde along with Mr. Pandurang Gaikwad,
learned A.PPs for the State/Applicant and Mr. Shirish Gupte,
learned Senior Counsel for the Respondent.

2. By the present Application filed under section 439(2) of the
Code of Criminal Procedure 1973 ("Cr.P.C." for short), the Applicant
(State) has questioned the Order dated 4th April 2024 passed by the
Additional Sessions Judge, Vadgaon Maval, District-Pune, at
Exhibit-6 on the file of Criminal Bail Application No. 54 of 2023,
granting bail to the Respondent.

FIRST INFORMATION REPORT :

- Crime No. 233 of 2023 was registered with Telegaon Dabhade Police Station, Pimpri–Chinchwad, on the basis of complaint dated 12th May 2023 lodged by Smt. Sulochana Gangaram Aware (Informant) mother of Kishor Aware (deceased), for the offences punishable under Sections 302 read with 120(B) of the Indian Penal Code, 1860, Sections 3(25), 4(25), 3(27) & 4(27) of the Indian Arms Act, 1959, Section 37(1)/135 of the Maharashtra Police Act, 1951 and Section 7 of the Criminal Law Amendment Act, 2013.
- Informant by her complaint, reported that her son deceased Kishor, who was the founder President of Janseva Vikas Seva Samiti, had political rivalry with Sunil Shelke, Sudhakar Shelke and Sandip Garade. Sunil Shelke and Sudhakar Shelke had grudge against deceased Kishor, as he was helping Santosh Shelke the political rival of MLA Sunil Shelke. Deceased Kishor was a threat to the political monopoly of Sunil Shelke. Since about 6 months prior to the incident, deceased Kishor had disclosed to the informant, of he having received threat to his life from Sunil Shelke, his brother Sudhakar Shelke and Sandip Garade. At about 12.30 p.m. on 12th May 2023, Sham Nigadkar and 3 unknown persons accompanying him, assaulted deceased Kishor with gun and sickle. Deceased Kishor succumbed to the injuries inflicted on him during the said assault.
- Crime No. 233 of 2023 is registered as Sessions Case No. 54 of 2023 and is pending before the Court of the Additional

Sessions Judge, Vadgaon Maval, District-Pune (“learned Judge” for short). There are nine (9) accused persons in the said crime.

PROSECUTION CASE AGAINST RESPONDENT /ACCUSED NO. 8 :

- a. Respondent was not named in the FIR.
 - b. During investigation, it was revealed that about a year prior to the incident i.e. on 4th April 2022, deceased Kishor had slapped Respondent and that deceased Kishor by way of an article on Facebook had defamed Respondent. Alleging revenge as the motive to commit murder, Respondent was arrayed as Accused No. 8 in Crime No. 233 of 2023.
3. Respondent was arrested on 8th July 2023. Bail application at Exhibit-6 in Sessions Case No. 54 of 2023, filed by the Respondent was allowed by the learned Judge, vide order dated 4th April 2024 (“impugned order” for short).
4. By the present Application filed on 18th September 2023, the Applicant/State is seeking cancellation of bail on the grounds mentioned in paragraph nos. 6(a) to 6(p). Pursuant to the order dated 23rd July 2025, the Applicant added ground (p) in the memo of present Application. Applicant has sought the following reliefs :-

“a) Rule be issued;

b) This Hon’ble Court be pleased to cancel the Bail granted by the learned Additional Sessions Judge, Vadgaon Maval, District-Pune vide order dated 4th April 2024 in Criminal Bail Application No. 54 of 2023 to the

Respondent/original Accused may be directed to surrender with the concerned police forthwith.”

5. Ms. Veera Shinde, learned A.P.P. for the State/Applicant in addition to the oral arguments, has tendered brief written submissions. Voicing in favour of the grounds urged in the memo of the application, she has made the following submissions :-

A. Impugned order is erroneous. Learned Judge has relied on the decisions of the higher Courts, which are not applicable to the facts of present case.

B. Impugned order suffers from perversity. According to her, perversity in the impugned order is for the following reasons :-

- a) Learned Judge has ignored the motive and conspiracy elements involved in the present crime. She clarifies by submitting that the Respondent had a motive to kill deceased Kishor in view of a prior altercation, which resulted in slapping of Respondent and a defamatory article, which was posted and circulated by the deceased Kishor on Facebook.
- b) She submits that the learned Judge has failed to appreciate that the conspiracy rarely has direct evidence, circumstantial links and meetings are crucial. She places reliance on the provisions of Section 10 of the Indian Evidence Act, 1872 to contend that the co-conspirators are bound by the acts of other accused persons.
- c) She submits that the learned Trial Court has mis-read

the CCTV footage/evidence and has understated the durations of meetings of Accused Nos. 1, 3 to 5 & 8. She relies on the chart showing meetings of Respondent with the Accused Nos. 1 to 5 (Assailants).

- d) She submits that the findings/observations of learned Trial Court that there is no material to connect the Respondent with the crime or the conspiracy, are without any basis. She submits that the presence of Assailants at the house of Respondent, son of the Respondent (Accused No.6) meeting the Assailants, said Assailants being given treatment at food lane eatery owned by the Respondent, itself was sufficient to connect the Respondent with the crime.

C. Respondent having violated bail condition no. b of the impugned order. She submits that a Non-Cognizable (NC) complaint has been registered against the Respondent on the allegation of the Respondent attempting to tamper with the prosecution evidence.

D. On the basis of the above contentions she submits that the bail granted to the Respondent, needs to be cancelled. She relies on the following decisions:-

a. *Puran v. Ram Bilas*¹ [Para-11]

“11. Further, it is to be kept in mind that the concept of setting aside the unjustified illegal or perverse order is totally different from the concept of cancelling the bail on

¹ (2001) 6 SCC 338.
Gitalaxmi

the ground that the accused has misconducted himself or because of some new facts requiring such cancellation. This position is made clear by this Court in Gurcharan Singh v. State (Delhi Admn.) [(1978) 1 SCC 118 : 1978 SCC (Cri) 41 : AIR 1978 SC 179]. In that case the Court observed as under: (SCC p. 124, para 16)

“If, however, a Court of Session had admitted an accused person to bail, the State has two options. It may move the Sessions Judge if certain new circumstances have arisen which were not earlier known to the State and necessarily, therefore, to that court. The State may as well approach the High Court being the superior court under Section 439(2) to commit the accused to custody. When, however, the State is aggrieved by the order of the Sessions Judge granting bail and there are no new circumstances that have cropped up except those already existing, it is futile for the State to move the Sessions Judge again and it is competent in law to move the High Court for cancellation of the bail. This position follows from the subordinate position of the Court of Session vis-à-vis the High Court.”

b. Narendra K. Amin v. State of Gujarat² [Paras-23 to 27]

‘23. Even though the reappreciation of the evidence as done by the court granting bail is to be avoided the court dealing with an application for cancellation of bail under Section 439(2) can consider whether irrelevant materials were taken into consideration. That is so because it is not known as to what extent the irrelevant materials weighed with the court for accepting the prayer for bail.

24. In Puran v. Rambilas [(2001) 6 SCC 338 : 2001 SCC (Cri) 1124] it was noted as follows : (SCC p. 345, para 11)

“11. Further, it is to be kept in mind that the concept of setting aside the unjustified illegal or perverse order is totally different from the concept of cancelling the bail on the ground that the accused has misconducted himself or because of some new facts requiring such cancellation. This position is made clear by this Court in Gurcharan Singh v. State (Delhi Admn.) [(1978) 1 SCC 118 : 1978 SCC (Cri) 41] . In that case the Court observed as under : (SCC p. 124, para 16)

² (2008) 13 SCC 584.
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‘16. ... If, however, a Court of Session had admitted an accused person to bail, the State has two options. It may move the Sessions Judge if certain new circumstances have arisen which were not earlier known to the State and necessarily, therefore, to that court. The State may as well approach the High Court being the superior court under Section 439(2) to commit the accused to custody. When, however, the State is aggrieved by the order of the Sessions Judge granting bail and there are no new circumstances that have cropped up except those already existing, it is futile for the State to move the Sessions Judge again and it is competent in law to move the High Court for cancellation of the bail. This position follows from the subordinate position of the Court of Session vis-à-vis the High Court.’

25. The perversity as highlighted in Puran case [(2001) 6 SCC 338 : 2001 SCC (Cri) 1124] can also flow from the fact that as noted above irrelevant materials have been taken into consideration adding vulnerability to the order granting bail. The irrelevant materials should be of a substantial nature and not of a trivial nature. In the instant case, the trial court seems to have been swayed by the fact that Sohrabuddin, husband of Kausarbi had shady reputation and criminal antecedents. That was certainly not a factor which was to be considered while granting bail. It was the nature of the acts which ought to have been considered. By way of illustration, it can be said that the accused cannot take a plea while applying for bail that the person whom he killed was a hardened criminal. That certainly is not a factor which can be taken into account. Another significant factor which was highlighted by the State before the High Court was that an FIR allegedly was filed to divert attention from the fake encounter. The same was not lodged by Gujarat Police.

26. Once it is found that bail was granted on untenable grounds, same can be cancelled. The stand that there was no supervening circumstance has no relevance in such a case.

27. We have only highlighted the above aspects to show that irrelevant materials have been taken into account and/or relevant materials have been kept out of consideration. That being so, the order of granting bail to the appellant was certainly vulnerable. The order of the High Court does not suffer from any infirmity to warrant interference. The appeal is dismissed. However, it is made clear that whatever observations have been made are only to decide the question of grant of bail and shall not be treated to be

expressing any opinion on merits. The case relating to acceptability or otherwise of the evidence is the subject-matter for the trial court.”

c. Jageet Singh v. Ashish Mishra³ [Para-28 & 29]

'28. Ordinarily, this Court would be slow in interfering with any order wherein bail has been granted by the court below. However, if it is found that such an order is illegal or perverse [Puran v. Rambilas, (2001) 6 SCC 338, para 10 : 2001 SCC (Cri) 1124] , or is founded upon irrelevant materials adding vulnerability to the order granting bail [Narendra K. Amin v. State of Gujarat, (2008) 13 SCC 584, para 25 : (2009) 3 SCC (Cri) 813] , an appellate court will be well within its ambit in setting aside the same and cancelling the bail.

29. This position of law has been consistently reiterated, including in Kanwar Singh Meena v. State of Rajasthan [Kanwar Singh Meena v. State of Rajasthan, (2012) 12 SCC 180, para 10 : (2013) 4 SCC (Cri) 614] , wherein this Court set aside the bail granted to the accused on the premise that relevant considerations and prima facie material against the accused were ignored. It was held that : (Kanwar Singh Meena case [Kanwar Singh Meena v. State of Rajasthan, (2012) 12 SCC 180, para 10 : (2013) 4 SCC (Cri) 614] , SCC p. 186, para 10)

“10. Each criminal case presents its own peculiar factual scenario and, therefore, certain grounds peculiar to a particular case may have to be taken into account by the court. The court has to only opine as to whether there is prima facie case against the accused. The court must not undertake meticulous examination of the evidence collected by the police and comment on the same. Such assessment of evidence and premature comments are likely to deprive the accused of a fair trial. ... The High Court or the Sessions Court can cancel the bail even in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant materials indicating prima facie involvement of the accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in cancelling the bail. Such orders are against the well-recognised principles underlying the power to grant bail.

³ (2022) 9 SCC 321.
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Such orders are legally infirm and vulnerable leading to miscarriage of justice and absence of supervening circumstances such as the propensity of the accused to tamper with the evidence, to flee from justice, etc. would not deter the court from cancelling the bail. The High Court or the Sessions Court is bound to cancel such bail orders particularly when they are passed releasing the accused involved in heinous crimes because they ultimately result in weakening the prosecution case and have adverse impact on the society. Needless to say that though the powers of this Court are much wider, this Court is equally guided by the above principles in the matter of grant or cancellation of bail.”

d. Ajwar v/s. Waseem and Another⁴[Para-29]

“29. In Jagjeet Singh [Jagjeet Singh v. Ashish Mishra, (2022) 9 SCC 321 : (2022) 3 SCC (Cri) 560] , a three-Judge Bench of this Court, has observed that the power to grant bail under Section 439CrPC is of wide amplitude and the High Court or a Sessions Court, as the case may be, is bestowed with considerable discretion while deciding an application for bail. But this discretion is not unfettered. The order passed must reflect due application of judicial mind following well-established principles of law. In ordinary course, courts would be slow to interfere with the order where bail has been granted by the courts below. But if it is found that such an order is illegal or perverse or based upon utterly irrelevant material, the appellate court would be well within its power to set aside and cancel the bail. (Also refer : Puran v. Rambilas [Puran v. Rambilas, (2001) 6 SCC 338 : 2001 SCC (Cri) 1124] ; Narendra K. Amin v. State of Gujarat [Narendra K. Amin v. State of Gujarat, (2008) 13 SCC 584 : (2009) 3 SCC (Cri) 813] .”

6. Naysaying the above submissions, Mr. Shirish Gupte, learned Senior Counsel appearing for the Respondent, supported the impugned order. He submits that the learned judge has considered the material on record and exercised discretionary jurisdiction by grant of bail. He submits that the learned Judge has referred to the entire evidence as alleged against the Respondent, the learned

⁴ (2024)10 SCC 768.
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Judge has addressed the same and has arrived at a judicious conclusion of the Respondent being entitled to bail. He by referring to the reply dated 30th July 2025 filed by the Respondent, points out to the document i.e., the memo of Criminal Writ Petition No. 3960 of 2023, filed by the Informant before this Court seeking transfer of the investigation from Talegaon Dabhade Police Station, Pimpri-Chinchwad to an independent agency outside Pune. He specifically points out to the complaint dated 6th July 2023 filed by the Informant with the Commissioner of Police. He submits that the Informant had attempted to question the impugned order before this court as also before the learned Judge, which attempts failed. He submits that the Applicant herein was a party to the said proceedings filed by the Informant. He submits that the Informant having failed in her attempt, the Applicant ought not to be shown any indulgence. He submits that the learned Judge having exercised discretion and the Applicant having failed to point out any perversity in the impugned order, no interference is warranted in the present application.

7. He relies on the following decisions in support of his case :-

*a. Himanshu Sharma v/s. State of Madhya Pradesh*⁵ and

b. Ajwar v/s. Waseem and Another (supra)

8. From the facts and the rival contentions raised in the present application, the question that falls for determination is ‘Whether the impugned order suffers from perversity?; Whether the impugned order shows irrelevant materials have been taken into account and/or relevant materials have been kept out of

⁵ (2024)4 SCC 222.
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considerations? and Whether the Applicant proves the Respondent having violated/committed breach of the bail condition no. (b) of the impugned order?’.

9. I have perused the records with the assistance of the learned Advocate of the parties.

10. In the case of *Harjit Singh v/s. Inderpreet Singh alias Inder and Another*⁶ in paragraph no. 8, the Hon’ble Supreme Court has observed as follows :-

“8. At this stage, a recent decision of this Court in Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana Makwana [Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana Makwana, (2021) 6 SCC 230 : (2021) 2 SCC (Cri) 722] is also required to be referred to. In the said decision, this Court considered in great detail the considerations which govern the grant of bail, after referring to the decisions of this Court in Ram Govind Upadhyay [Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598 : 2002 SCC (Cri) 688]; Prasanta Kumar Sarkar [Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765]; Chaman Lal v. State of U.P. [Chaman Lal v. State of U.P., (2004) 7 SCC 525 : 2004 SCC (Cri) 1974]; and the decision of this Court in Sonu v. Sonu Yadav [Sonu v. Sonu Yadav, (2021) 15 SCC 228]. After considering the law laid down by this Court on grant of bail, in the aforesaid decisions, in paras 23 & 39-40 it is observed and held as under : (Ramesh Bhavan Rathod case [Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana Makwana, (2021) 6 SCC 230 : (2021) 2 SCC (Cri) 722], SCC pp. 244 & 251-52)

“23. The first aspect of the case which stares in the face is the singular absence in the judgment [Vishanbhai Hirabhai Makwana Makwana v. State of Gujarat, 2020 SCC OnLine Guj 2987] of the High Court to the nature and gravity of the crime. The incident which took place on 9-5-2020 resulted in five homicidal deaths. The nature of the offence is a circumstance which has an important bearing on

⁶ (2021)19 Supreme Court Cases 355.
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the grant of bail. The orders of the High Court are conspicuous in the absence of any awareness or elaboration of the serious nature of the offence. The perversity lies in the failure of the High Court to consider an important circumstance which has a bearing on whether bail should be granted. In the two-Judge Bench decision of this Court in Ram Govind Upadhyay v. Sudharshan Singh [Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598 : 2002 SCC (Cri) 688], the nature of the crime was recorded as “one of the basic considerations” which has a bearing on the grant or denial of bail. The considerations which govern the grant of bail were elucidated in the judgment of this Court without attaching an exhaustive nature or character to them. This emerges from the following extract : (Ram Govind Upadhyay case [Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598 : 2002 SCC (Cri) 688], SCC p. 602, para 4)

‘4. Apart from the above, certain other which may be attributed to be relevant considerations may also be noticed at this juncture, though however, the same are only illustrative and not exhaustive, neither there can be any. The considerations being :

(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.

(c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie

satisfaction of the court in support of the charge.

(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.'

This Court further laid down the standard for overturning an order granting bail in the following terms : (Ram Govind Upadhyay case [Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598 : 2002 SCC (Cri) 688], SCC p. 602, para 3)

'3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained.'

39. Grant of bail under Section 439 CrPC is a matter involving the exercise of judicial discretion. Judicial discretion in granting or refusing bail—as in the case of any other discretion which is vested in a court as a judicial institution—is not unstructured. The duty to record reasons is a significant safeguard which ensures that the discretion which is entrusted to the court is exercised in a judicious manner. The recording of reasons in a judicial order ensures that the thought process underlying the order is subject to scrutiny and that it meets objective standards of reason and justice. This Court in Chaman Lal v. State of U.P. [Chaman Lal v. State of U.P., (2004) 7 SCC 525 : 2004 SCC (Cri) 1974] in a similar vein has held that an order of a High Court which does not contain reasons for prima facie concluding that a bail should be granted is liable to be set aside for non-application of mind. This Court observed : (SCC p. 527, paras 8-9)

'8. Even on a cursory perusal the High Court's order shows complete non-application of mind. Though

detailed examination of the evidence and elaborate documentation of the merits of the case is to be avoided by the court while passing orders on bail applications. Yet a court dealing with the bail application should be satisfied, as to whether there is a prima facie case, but exhaustive exploration of the merits of the case is not necessary. The court dealing with the application for bail is required to exercise its discretion in a judicious manner and not as a matter of course.

9. There is a need to indicate in the order, reasons for prima facie concluding why bail was being granted, particularly where an accused was charged of having committed a serious offence.'

40. We are also constrained to record our disapproval of the manner in which the application for bail of Vishan (A-6) was disposed of. The High Court sought to support its decision to grant bail by stating that it had perused the material on record and was granting bail "without discussing the evidence in detail" taking into consideration:

- (1) the facts of the case;*
- (2) the nature of allegations;*
- (3) gravity of offences; and*
- (4) role attributed to the accused."*

11. Perusal of the impugned order from paragraph nos. 11 to 16, reveals that the learned Judge has considered the material on record, which pertain to the allegations of the Respondent hatching a conspiracy to eliminate deceased Kishor. Learned judge after referring to the material, which includes the Call Details Record, the CCTV footage and other material, has arrived at the following conclusion :-

"So far as the present applicant/accused is concerned, his role is to the effect that he has hatched the conspiracy but there is no direct allegation that he has instigated or provided

weapon to the main accused. In such circumstance, keeping applicant/accused behind bar will not serve any purpose.”

12. With reference to the material on record pertaining to the confessional statement and the CCTV footage are concerned, the learned judge has observed as follows :-

“So far as confessional statement is concerned, the applicant/accused has allegedly shows the spot where he made plan but said place was already discovered as per CCTV footage, So far as antecedent is concerned, applicant/accused file documents to show that he was acquitted from those offences. The applicant/accused is admittedly suffering from various ailments. The trial will take its own time. It is a matter of trial that applicant/accused has committed alleged offence or not The apprehension of prosecution can be taken care by imposing some stringent conditions upon applicant/accused and thereby purpose of prosecution would be suffice.”

13. It is trite law that the power to grant bail is discretionary and must reflect due application of judicial mind. For reaching a conclusion as to a *prima facie* offence is made out or not it would not be permissible for the Court to travel into the evidentiary realm or consider other materials, nor the court could advert to conduct a mini trial. If the parameters for adjudication of bail application as curled out from the various pronouncements of the Hon’ble Supreme Court are not considered, then an order granting bail would be vulnerable and can be interfered by the Superior Court.

14. From the contents of memo of Application for cancellation of bail, written submissions and the oral submissions as canvassed by Ms. Veera Shinde, learned A.P.P. for the State, impugned order is challenged on the ground of it being a ‘perverse order’.

15. In the case of *Ramakant Ambalal Choksi v/s. Harish Ambalal*

*Choksi and Others*⁷ in paragraph nos. 34 to 36, the Hon'ble Supreme Court has dealt with the meaning of expression "Perverse". Said paragraphs read thus :-

"34. Any order made in conscious violation of pleading and law is a perverse order. In Moffett v. Gough [Moffett Gough, (1878) 1 LR Ir 331], the Court observed that a perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. In Godfrey v. Godfrey [Godfrey Godfrey, 106 NW 814 : 127 Wis 47 (1906)], the Court defined "perverse" as "turned the wrong way"; not right; distorted from the right; turned away or deviating from what is right, proper, correct, etc.

35. The expression "perverse" has been defined by various dictionaries in the following manner:

(a) Oxford Advanced Learner's Dictionary of Current English, 6th Edn.

Perverse — Showing deliberate determination to behave in a way that most people think is wrong, unacceptable or unreasonable.

(b) Longman Dictionary of Contemporary English — International Edn.

Perverse — Deliberately departing from what is normal and reasonable.

(c) The New Oxford Dictionary of English — 1998 Edn.

Perverse — Law (of a verdict) against the weight of evidence or the direction of the Judge on a point of law.

(d) New Webster's Dictionary of the English Language (Deluxe Encyclopedic Edn.)

Perverse — Purposely deviating from accepted or expected behavior or opinion; wicked or wayward; stubborn; cross or petulant.

(e) Stroud's Judicial Dictionary of Words & Phrases, 4th Edn.

Perverse — A perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence.

36. The wrong finding should stem out on a complete misreading of evidence or it should be based only on

⁷ (2024)11 Supreme Court Cases 351.
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conjectures and surmises. Safest approach on perversity is the classic approach on the reasonable man's inference on the facts. To him, if the conclusion on the facts in evidence made by the court below is possible, there is no perversity. If not, the finding is perverse. Inadequacy of evidence or a different reading of evidence is not perversity. (See Damodar Lal v. Sohan Devi [Damodar Lal v. Sohan Devi, (2016) 3 SCC 78 : (2016) 2 SCC (Civ) 36] .)”

16. Objections and/or the submissions that the impugned order suffers from the perversity, as submitted by Ms. Veera Shinde, learned A.P.P. for the Applicant/State are in the nature of calling this Court to re-appreciate the entire material on record and on such re-appreciation to accept the view, as suggested by the prosecution. I am unable to accept the said contention of Ms. Veera Shinde, learned A.P.P. for the State/Applicant. The Applicant has failed to show any perversity in the Impugned order.

17. In my view, the learned judge has addressed to the nature of allegations in the present crime, has considered the gravity of offence as well as the role attributed to the Respondent and has exercised discretion in favour of the Respondent. Contentions of Ms. Shinde in her oral submissions and written submissions, gives an impression that the Applicant is suggesting to conduct a mini trial in the present matter. Material against the Respondent has been well considered by the learned Judge. I am therefore unable to accept the contention of Ms. Veera Shinde, learned A.P.P. that the impugned order either suffers from the perversity or the impugned order has considered material, which is irrelevant and/or has ignored material available on record. The Applicant has failed to indicate the purported material which is ignored by the learned Judge and/or the irrelevant material that has been considered

while granting bail to the Respondent.

18. In the case of *Vilas Pandurang Pawar v. State of Maharashtra*⁸, the Hon'ble Supreme Court in paragraph no. 10 has observed as follows :-

“10. ... Moreover, while considering the application for bail, scope for appreciation of evidence and other material on record is limited. The court is not expected to indulge in critical analysis of the evidence on record...”

19. Mr. Gupte, learned Senior Counsel for the Respondent pointed out the complaint dated 5th July 2023 filed by the Informant with the Police Commissioner. Paragraph no. 20 of the complaint reads as follows :-

“20. It appears from whatever information I gathered that the alleged motive as per the prosecution story is some registration of NC last year that is on as it is alleged that my deceased son slapped Mr. Chandrabhan Khalde and it is sort to be suggested that such insignificant even may be a motive for the heinous crime of murder.

I respectfully say that this too weak motive so as to commit such harsh crime.

As against that it was a known fact in the vicinity that Sunil Shelke, Sudhakar Shelke and Sandeep Garade were sworn enemies of deceased son and their enmity was known in the society and as such those persons had not only motive to cause harm to my son but there is enough material on record supporting the conspiracy story by Sunil Shelke, Sudhakar Shelke and Sandeep Garade, but up to this date there is no investigation at all in this regard. The said Accused persons named by me had filed false complaints against my deceased son because of the obvious reason of enmity.”

20. Mr. Gupte, learned Senior Counsel for the Respondent has

⁸ (2012)8 SCC 795.
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further pointed out that the Informant/original Complainant had approached this Court seeking cancellation of bail granted to the Respondent by filing Criminal Application No. 127 of 2024. Said application was disposed of on 21st November 2024 by the following order :-

“1. Without arguing the matter, the learned counsel for the applicant, on instructions, seeks permission to withdraw the present application.

2. Permission is granted.

3. The bail application is disposed of as withdrawn.”

21. Records placed in this Application reveal that after withdrawal of the Criminal Application No. 127 of 2024, the Informant had filed an Application dated 18th September 2024 before the learned judge in Sessions Case No. 54 of 2023, seeking cancellation of bail granted to the Respondent. Page 146 refers to the endorsement made on the said Application by the Advocate representing the Informant in Sessions Case No. 54 of 2023. Based on the endorsement, the learned Additional Sessions Judge, Vadgaon Maval, District-Pune had passed the following order :-

“ORDER BELOW EXH. 115 IN SESSIONS CASE NO. 54/2023

(State of Maharashtra -vs- Sham Nigadkar and Others.)

Advocate Shri. A. R. Aaware submitted that his senior advocate has gone to Khed. He is not coming to this Court. Advocate Shri. Aaware further stated that a petition is moved before the Hon'ble High Court for cancellation of bail of this applicant Chandrabhan @ Bhanu Vishwanath Khalade. Still this application Exhibit 115 is pending for adjudication by this Court. I think that this observation is sufficient. Thereafter, the Ld. Advocate has given written submission on the application that he is not pressing the application. Hence, Exhibit 132 is

disposed off as 'Not Pressed'."

22. Order dated 21st November 2024 and the Order dated 26th June 2025, would indicate that the Informant though had attempted to raise the grievance about the impugned order, before this Court as well as the learned Additional Sessions Judge, Vadgaon Maval, District-Pune, the same was not pressed/withdrawn. Mr. Gupte would be right in his submission that the Applicant/State cannot go beyond the right of the Informant.

23. With reference to the contention of Ms. Veera Shinde, learned A.P.P. that the Respondent has violated/committed breach of the condition imposed by the impugned order i.e. ground (p) as raised in the memo of Application, to a specific query to Ms. Veera Shinde, learned A.P.P. as to 'whether any action or any steps have been initiated pursuant to the registration of NC complaint no. 489 of 2024 dated 3rd September 2024 with reference to the provisions of Section 155 of the Cr.P.C. (Section 174(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023)?', she answered in negative. Thus, the facts as they stand, though the NC complaint dated 3rd September 2024 is filed, till date no steps have been taken for requesting investigation/further investigation in the said complaint. In such circumstances, merely on the basis of a NC complaint, it would be far-fetched to contend that the Respondent has violated or breached condition no. (b), imposed in the impugned order. Even otherwise the Applicant has failed to produce any material in support of its claim of the Respondent committing breach of condition no. (b).

24. In the case of *Ashok Dhankad v/s. State of NCT of Delhi and Another*⁹, the Hon'ble Supreme Court after referring to various earlier pronouncements, in paragraph no. 19 has held as follows :-

“19. The principles which emerge as a result of the above discussion are as follows:

(i) An appeal against grant of bail cannot be considered to be on the same footing as an application for cancellation of bail;

(ii) The Court concerned must not venture into a threadbare analysis of the evidence adduced by prosecution. The merits of such evidence must not be adjudicated at the stage of bail;

*(iii) An order granting bail must reflect application of mind and assessment of the relevant factors for grant of bail that have been elucidated by this Court. [See: *Y v. State of Rajasthan (Supra)*; *Jaibunisha v. Meherban (2022)5 SCC 465* and *Bhagwan Singh v. Dilip Kumar @ Deepu (2023)13 SCC 549*.*

(iv) An appeal against grant of bail may be entertained by a superior Court on grounds such as perversity; illegality; inconsistency with law; relevant factors not been taken into consideration including gravity of the offence and impact of the crime:

(v) However, the Court may not take the conduct of an accused subsequent to the grant bail into consideration while considering an appeal against the grant of such bail. Such grounds must be taken in an application for cancellation of bail; and

(vi) An appeal against grant of bail must not be allowed to be used as a retaliatory measure. Such an appeal must be confined only to the grounds discussed above.”

25. I have considered the Impugned Order, in the light of parameters in relation to adjudication of bail application emanating from the various pronouncements of the Hon'ble

⁹ 2025 SCC OnLine SC 1690.
Gitalaxmi

Supreme Court. Applicant has failed to make out a case either of perversity or any case for cancellation of bail in terms of the law laid down by the Hon'ble Supreme Court in the case of *Ashok Dhankad (supra)*.

26. In view of the above, no case is made out to entertain the Application. Application is without merits and as such, dismissed.

[ASHWIN D. BHOBE, J.]

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