

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 17 OF 2025

Dr. Hemal Siddharth Mehta

.. Applicant

Versus

State of Maharashtra & Anr.

.. Respondents

.....

- Mr. Himanshu Vinod Kode, Advocate for Applicant
- Ms. Savita M Yadav, APP for Respondent No. 1 - State

.....

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 24, 2025

P. C.:

1. Heard Mr. Kode, learned Advocate for Applicant and Ms. Yadav, learned APP for Respondent No. 1 - State.

2. In the morning session, when the present Application was called out, I was informed that order dated 20.02.2025 was complied with and Respondent No. 2 was served with a copy of the Application by the concerned Investigating Officer (IO). At that time Respondent No. 2 was not present in Court. In that view of the matter, this Court dictated the order in Court requiring the IO to once again inform Respondent No. 2 to remain present in Court tomorrow i.e. 25.04.2025.

3. In the afternoon session, Respondent No. 2 and his mother both appeared before the Court and informed the Court that they were present in the Court but did not realize about the matter being called

out. Be that as it may, giving benefit of doubt to Respondent No. 2, the Application was heard.

4. It is seen that present Application seeks cancellation of bail obtained by Respondent No. 2 from the Sessions Court which *prima facie* is without notice having been issued to the prosecutrix - victim in the crime or she being heard by the Court. The procedure envisaged by the provisions of the Cr.P.C. is clear. It states that before hearing the Application for bail under the provisions of IPC read with POCSO Act, the prosecutrix - victim is required to be heard by the Court. The Court is also required to ensure that appropriate service of notice is effected on the prosecutrix - victim / legal guardian of the prosecutrix for the purpose of such hearing. *Prima facie* it is seen that the same is not found to have been done by the Sessions Court while enlarging the Respondent No. 2 on bail.

5. When Respondent No. 2 and his mother have appeared before the Court today, I have informed them to bring their Advocate. They both have informed me that they do not have an Advocate and have behaved in an unusual manner in the Court and have stated that whatever punishment the Court desires to give can be given to the Respondent No. 2. I have informed them in Court that on the next adjourned date they will have to appoint an Advocate to appear on behalf of Respondent No. 2 in the present Application which seeks

cancellation of bail. I have also informed them that the the next date for hearing the Application will be on 02.05.2025 and they are directed to ensure that an Advocate is appointed by them to represent him on that date. I am informed by Mr. Kode that before the trial Court, Respondent No.2 is / was duly represented by Advocate at all times and most importantly after his release on bail, the Respondent No. 2 is not attending the trial Court on the scheduled dates of hearing.

6. It is clarified that if Respondent No. 2 does not bring his Advocate on the next adjourned date, present Application shall be heard in accordance with law on its own merits and shall be decided accordingly. Respondent No. 2 has confirmed that he has received copy of the present Application.

7. Stand over to **2nd May, 2025 at 2.30 p.m.**

[MILIND N. JADHAV, J.]

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