

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 298 OF 2025

Hemant Paikh	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. Dilip H. Shukla, for the Applicant.
Ms. P..P. Bhosale, APP for the Respondent - State.
API Sandip Pise/ EOW, Mumbai.

CORAM : ADVAIT M. SETHNA, J.

DATE : 13 MAY 2025
(VACATION COURT)

P.C.:

1. This criminal application is filed with a prayer to quash and set aside the order dated 20 February 2025 passed by the learned Trial Court, Mumbai - Judicial Magistrate, 47th Esplanade Court, Mumbai in PW/327/2021 cancelling the bail of the applicant. The applicant is also seeking for an interim relief in terms of prayer clause (a). He would also pray that in the interim implementation and execution of the orders dated 5 November 2024 issuing non-bailable warrant and order dated 20 February 2025 cancelling the bail of the applicant be stayed.
2. The learned counsel for the applicant has placed copies of the relevant roznama of the proceedings before the trial Court on record. He would rely on an order passed by the learned Magistrate dated 20

February 2025 which reads thus :-

“Bail of accused No.1 is cancelled.”

3. It is seen from the record that a charge-sheet is filed on 31 May 2021. The learned APP would draw the Court's attention to an application dated 20 February 2025 made by the prosecution for cancellation of the bail of the accused - applicant. It is on such application that the order dated 20 February 2025 was passed by the trial Court. However, the learned Advocate for the applicant would submit that though the learned Advocate for the accused was present as recorded in the roznama, the Court without hearing as he would submit passed an order for cancellation of the bail for accused no.1 mainly on the ground of his non-appearance before the Magistrate's Court in those proceedings.

4. The learned APP would strongly object to the submissions made by Mr. Shukla, learned counsel for the applicant.

5. I have heard the submissions of the learned counsel for the parties and perused the record with their assistance. It appears that the order dated 20 February 2025 is cryptic and has no reasons to support its findings for cancellation of the applicant's bail except for recording that its stand cancelled. This is despite the fact that the advocate for the applicant was present as noted in the Roznama of the said date, to which Mr. Shukla would submit that the advocate was not heard. It is true that the order dated 20 February 2025 cancelling the bail of the applicant and

issuing a non bailable warrant in his absence is rather harsh. In this regard Mr. Shukla would submit that the applicant has been present before the Magistrate Court regularly as the Roznama would indicate. The learned APP would not dispute such position. Be that as it may.

6. In my view the following order would serve the interest of justice :-

ORDER

(i) The order dated 20 February 2025 passed by the Judicial Magistrate, 47th Esplanade Mumbai in PW/327/2021 is hereby set aside.

(ii) The applicant is directed to appear before the trial court as above on 19 May 2025 with an appropriate application to be considered by the said trial court. The same if filed, shall be considered by the trial court is requested to pass appropriate orders on priority within a period of three days thereafter, in accordance with law.

(iii) It is made clear that if the applicant fails to enter appearance as directed above before the trial court, the trial court shall proceed to pass appropriate orders in accordance with law without further reference to this Court.

(iv) It is made clear that the Court has not expressed any opinion on merits of the proceedings, which are expressly kept open.

7. The parties would agree that in light of the above orders no further adjudication of this application would be necessary.
8. The application stands disposed of in the above terms.

[ADVAIT M. SETHNA, J.]