

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

CRIMINAL APPLICATION NO.574 OF 2025

SATISH
RAMCHANDRA
SANGAR

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Date: 2025.07.17
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Abhijatya Singh S/o Radheshyam Singh

Age : 41 Years, Occupation : Business,

Ground Floor 2, 1/287, Sector 1,

Vasundhara, Ghaziabad, U.P. - 201012.

...Applicant

Versus

1. **The State of Maharashtra**

(Through the Office of the Public Prosecutor
PWD Building, High Court, Mumbai).

2. **The Senior Inspector of Police**

DCB, CID Unit-V, Next to Bhabha

Hospital Kurla(W), Mumbai – 400070.

...Respondents

Mr.Jaywant R. Avhad:-	Advocate for Applicant.
Ms.Rashmi S. Tendulkar:-	APP for Respondents – State.
Mr.Sadanand Yerekar : PI:-	DCB – CID – Unit 3.

CORAM : S. M. MODAK, J.

DATE : 11th JULY 2025

P. C. :-

1. Heard learned Advocate for the Applicant and learned APP.

2. The Court of Additional Sessions Judge – Greater Mumbai as per the order dated 9th July 2024 has cancelled the bail granted to this Applicant. The bail was granted by the Court of then Additional Chief

Metropolitan Magistrate – Esplanade as per the order dated 24th March 2023.

3. The Applicant came to be arrested in connection with a crime registered at J.J. Marg Police Station for the offences punishable under Sections 420, 465, 467, 468, 471, 120-B read with 34 of the Indian Penal Code, 1860 (“IPC”) and under Sections 66C, 66D of the Information Technology Act, 2000 (“IT Act”). The Applicant came to be arrested on 23rd January 2023. At that time, the offence was investigated by J.J.Marg Police Station.

4. He applied for regular bail before the Mazgaon Court. It was rejected on 9th February 2023. Then he applied for regular bail from Esplanade Court. In the meantime, the investigation was transferred to DCB-CID-SIT. The Esplanade Court was not informed about rejection of his earlier Bail Application by Mazgaon Court. The Esplanade Court granted him bail.

5. The State challenged the order of Esplanade Court by approaching the Court of Additional Sessions Judge as per the provisions of Section 439(2) of the Code of Criminal Procedure, 1973 (“Cr.P.C.”). **There were two grounds.** One on merits and second concealing the fact of rejection of the earlier bail. Learned Additional

Sessions Judge does not find favour on account of merits but on account of concealment of fact, he cancelled the bail.

6. During arguments, learned Advocate for the Applicant made the following submissions:-

- (a) If the bail is granted by the Metropolitan Magistrate Court, appropriate remedy is to approach under Section 437(5) of the Cr.P.C. and not under Section 439(2) of Cr.P.C.
- (b) When the bail was granted, at that time the substantial investigation was complete and there was no point in continuing with the detention of the Applicant.
- (c) Even DCB-CID ought to have informed to the Esplanade Court about the rejection of earlier Bail Application.

7. He relied upon the observations in case of ***Kulwant Singh @ Sajan V/s. State of Punjab***¹ and more specifically Para No.38 which says “*bail can be cancelled only when suppression is in respect of material fact and not otherwise.*” In that case, the bail was pending before the High Court and the Accused concealed this fact and obtained bail from the Sessions Court. That is why, it is observed “***that was not a material fact for deciding the lis.***”

8. From ***Kusha Duruka V/s. The State of Odisha***², he invited my attention to the observations in Para No.22. The Supreme Court

¹ CRM-M No.52620 of 2019 : 11th March 2022 : Punjab and Haryana High Court

² 2024 INSC 46

opined, “*that can be option to be exercised by the Court if the facts of the case so demand seeing the conduct of the parties.*” According to him, these observations are not properly considered by the Court of Additional Sessions Judge.

9. As against this, learned APP submitted that when the bail was earlier cancelled by the Mazgaon Court, at that time, J.J.Marg Police Station were investigating and it was not with DCB-CID. So, even DCB-CID were not aware of rejection of bail. She submitted that the DCB-CID was very much aggrieved by the grant of bail and that is why, they have moved under Section 439(2) of Cr.P.C.

10. In case of ***Kusha Duruka*** (cited supra), the Hon’ble Supreme Court has taken a strict view about concealment of fact about filing of earlier Bail Application and according to the Supreme Court, it has polluted the stream of administration of justice with tainted hands.

11. It is true when the earlier Bail Application is rejected, the concerned Court has considered the materials and given certain findings. (when second Bail Application is filed before the Esplanade Court, it was due to transfer of investigation). In fact, such a second Bail Application is not maintainable unless and until there is a change of circumstance. Merely because the investigation is transferred, it does

not mean there is change of circumstance. The Court of Esplanade has granted bail on certain grounds. The learned Judge opined, “*there was no need to keep the Applicant behind bar any more.*” It is true, this is one of the view but it is a fact that earlier Bail Application was rejected by reasoned order. By considering this fact, the another Judge has lost the opportunity of going through the reasoning. So certainly the action of the Applicant in not informing the Esplanade Court about the earlier order is certainly objectionable. The facts of ***Kulwant Singh*** (*cited supra*) are different. In that case, the High Court wherein the Bail Application was pending has not decided it. **That is why it was not considered as a material fact.** (But in this case when the bail is decided and it is rejected, certainly it is a material fact). This practice needs to be deprecated.

12. Now the learned Additional Sessions Judge has cancelled the bail. I have gone through the reasoning. It finds place in Para No.6 and Para No.7. Bail was cancelled for the reason of concealment. When the Hon’ble Supreme Court has deprecated such a conduct, I do not think that the learned Additional Sessions Judge was wrong in cancelling the bail. This practice needs to be deprecated.

13. The Applicant may succeed in bail on account of filing of the

charge-sheet but under the garb of getting bail, he cannot take the Court to task and conceal the material fact. So I am not inclined to allow the Application.

14. For these reasons, **the Application stands dismissed.**

15. If in future, the Applicant applies for bail, the Court to decide it on merits without being influenced by the above observations. It is for the reason, there are no findings about involvement of the Applicant in the crime.

[S. M. MODAK, J.]