

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3670 OF 2025
IN
ANTICIPATORY BAIL APPLICATION NO.395 OF 2025

Prashant Ramchandra Patil ... Applicant

V/s.

The State of Maharashtra & Anr. ... Respondents

ATUL
GANESH
KULKARNI

Digitally signed by
ATUL GANESH
KULKARNI
Date: 2025.10.06
18:10:16 +0530

Mr. Ashok Tajane with Ms. Pooja Thorat and Ms. Rekha Musale, for the applicant.

Ms. Anagha A. Deshmukh, APP for respondent No.1-State.

Mr. Murtaza Najmi with Mr. Vinod Sharma, and Mr. Shramika Sathe for respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 6, 2025

P.C.:

1. The present interim application is filed by a person who is not the informant in the original crime. He seeks cancellation of anticipatory bail granted to the accused. His case is that he is an aggrieved person. It appears from the record that this Court had earlier granted protection from arrest to the accused based upon an undertaking submitted by them. The said order was passed after considering the material available at that stage.

2. It is not the case of the present applicant that the accused have failed to comply with any of the conditions imposed by this Court while granting anticipatory bail. There is no material before

the Court to show that the accused have misused the liberty granted or violated any term of the order.

3. The main grievance raised by the present applicant is that the original accused had suppressed certain material facts while seeking pre-arrest protection. According to him, if such facts were disclosed, the Court would not have granted anticipatory bail. It is further alleged that the accused had filed a false affidavit by not disclosing the existence of an agreement to sell executed with the present applicant concerning the flat mentioned in the undertaking given to this Court.

4. The issue, therefore, is whether a person who is neither the informant nor the investigating agency can seek cancellation of bail only on the ground of alleged suppression of facts. The law in this regard is well settled. The power to cancel bail is distinct from the power to set aside a bail order. Cancellation can be sought only when there is misuse of liberty or breach of conditions. Where the grievance relates to suppression of material facts or misrepresentation made before the Court, the proper course is to approach the superior Court to seek recall or setting aside of the order on merits.

5. The Supreme Court in *Rashmi Rekha Thatoi v. State of Orissa* (2012) 5 SCC 690 has clearly held that when the grievance pertains to the manner in which bail was granted, and not to any subsequent misconduct or breach, the proper remedy lies in approaching the higher Court. The cancellation jurisdiction is not meant to review the earlier order unless there is proof of violation

of bail conditions or abuse of the concession.

6. In the present case, there is no allegation of breach of conditions. The applicant, being a third party to the proceedings, cannot seek cancellation of bail merely on the ground that certain facts were not disclosed. The question whether such non-disclosure amounts to suppression or misrepresentation requires examination by a superior Court in appropriate proceedings, not through an application for cancellation.

7. In view of the above, and without expressing any opinion on the allegations raised by the applicant regarding suppression or falsity of affidavit, this interim application stands rejected. The applicant is, however, at liberty to take recourse to appropriate legal proceedings before the competent forum, as permissible in law.

(AMIT BORKAR, J.)