



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION NO.63 OF 2024
(State of Maharashtra Vs. Rahul Suresh Deokar)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mrs. M.A. Barabde, APP for the State.
Mr. S.V. Sirpurkar, Advocate for the non-applicant.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 3, 2025

By this application, the State is seeking cancellation of bail which is granted to the present applicant by order dated 18/04/2024.

2. The present non-applicant is prosecuted of the offence punishable under Section 7 of Prevention of Corruption Act, 1988 and Sections 278 and 308 of the Indian Penal Code and Section 184 of the Motor Vehicles Act, 1988.

3. As per the case of the prosecution, the crime No.153/2024 is registered against the present non-applicant on an allegation that he demanded the gratification amount from the complainant namely Ravindra Kasat who is running the business of brokerage, therefore, the raid was conducted and the relevant documents are seized. On the basis of the said report, police have registered the crime against the present non-applicant.

4. After registration of the crime, the present non-applicant approached to the Sessions Court for grant of anticipatory bail. The Sessions Court has considered the investigation papers and allowed the application and released the non-applicant on bail by executing PR. Bond of Rs.15,000/-.

5. Being aggrieved and dissatisfied with the same, present application is filed by the State on the ground that the non-applicant has not furnished his voice sample which is required for the purpose of investigation. The amount allegedly was kept in the vehicle and the vehicle is also not produced by him. Thus, he is not cooperating with the investigating agency, and therefore, the bail granted to the present non-applicant deserves to be cancelled.

6. Learned APP for the State reiterated the said contentions and submitted that there is absolutely non-cooperation from the present non-applicant as far as the investigation part is concerned. After the application for cancellation of bail is filed, he approached to the investigating agency and furnished his voice sample. As far as the seizure of the car is concerned, he is not cooperating with the investigating agency, and therefore, the bail granted to him deserves to be cancelled.

7. Learned Counsel for the non-applicant submitted that overwhelming and supervening

circumstances which are required for cancellation of bail which appears to be not stated by the State. Merely because the non-applicant has not produced his vehicle is not sufficient to cancel his bail. As far as co-operation is concerned he has attended the police station also furnished his voice sample and thus he is cooperating with the investigating agency. He submitted that the considerations for grant of bail and considerations for cancellation of bail are totally different. Supervening and overwhelming circumstances are required for the cancellation of bail otherwise if the bail is granted to the accused by not considering the relevant material that ground can be available to the State for cancellation of bail. Here the applicant has co-operated with the investigating agency and he has also furnished his voice sample. Merely because he has not produced his vehicle, is not sufficient to show that there are overwhelming or supervening circumstances to cancel the bail. In view of that, the application deserves to be rejected.

8. I have heard learned Counsel for both the sides and on perusal of the order passed by the Sessions Judge it reveals that Sessions Judge has considered the submissions made by both the sides. It is also considered that during investigation the various statements are recorded. The documents are also seized from the office of the present non-applicant. The offence is not punishable with imprisonment for life or death penalty. The Court has

also considered that except the general apprehensions that if accused is released on bail he would tamper the prosecution evidence. There are no other grounds or objections raised by the State, and therefore, released him on bail. Admittedly, the considerations for grant of bail and considerations for cancellation of bail are different. Overwhelming and supervening circumstances are required for cancellation of bail.

9. It is well settled that once bail granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. A very cogent and overwhelming circumstances are necessary for an order directing cancellation of bail. In the case of **Dolat Ram and ors vs. The State of Haryana, [1995(1) SCC 349]**, the Honourable Apex Court laid down grounds for cancellation of bail, which are as under:

- (i) interference or attempt to interfere with the due course of administration of Justice;
- (ii) evasion or attempt to evade the due course of justice;
- (iii) abuse of the concession granted to the accused in any manner;

- (iv) possibility of accused absconding;
- (v) likelihood of/actual misuse of bail, and
- (vi) likelihood of the accused tampering with the evidence or threatening witnesses.

10. It is no doubt true that cancellation of bail cannot be limited to occurrence of supervening circumstances. The court has discretion to cancel the bail of an accused even in the absence of supervening circumstances, in following circumstances:

- a) where the court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record;
- b) where the court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim;
- c) where the past criminal record and conduct of the accused is completely ignored while granting bail;
- d) where bail has been granted on untenable grounds;

e) where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.

11. Thus, where a court considering an application for bail fails to consider relevant factors, the court has discretion to cancel the bail. While cancelling the bail, it has to be seen, whether the order granting bail suffers from non-application of mind or is not borne out from *prima facie* view of the evidence on record. Thus, it is necessary for the court to see, whether on the basis of record there existed a *prima facie* case or reasonable ground to believe that the accused has committed crime.

12. Thus, considering the order passed by the Special Judge and the reasons assigned to grant bail appears to be reasonable one. No grounds are made out to cancel the bail. In view of that, the application deserves to be rejected.

13. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)