



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPLN) NO. 128 OF 2024

State of Maharashtra Vs Shahrukh Aslam Sheikh @ Betting @ Guddu

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

Court's or Judge's Order

Mr. N.B. Jawade, APP for applicant/State.
Mr. S.M. Lodha, counsel for non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 04/07/2025.

1. This application is filed by the State for cancellation of bail, which is granted to the present applicant in Criminal Application (BA) No. 822/2023 by order dated 05/01/2024.

2. The applicant was arraigned as an accused in Crime No. 189/2021 registered with Police Station Majri, District Chandrapur, for the offences punishable under Sections 397, 382, 353, 333, 379, 511 read with Section 34 of the Indian Penal Code, 1860. The applicant approached this Court for grant of bail. While granting bail, considering the applicant's criminal antecedents, this Court released the applicant on bail on the conditions that he shall not enter the territorial jurisdiction of Chandrapur and Tahsil Bhadravati until the conclusion of the trial, except for attending the trial, and shall not leave the jurisdiction of the concerned police station without permission of the court.

3. Now, this application for cancellation of bail is filed by the State on the ground that after releasing the applicant on bail, he has committed two offences i.e. Crime No. 517/2024 and 64/2024 registered under Sections 3(5), 305, 331(4) of BNS and under Section 4(25) of the Indian Arms Act respectively.

4. Heard learned APP for the State, who submitted that there was a specific condition imposed by this court while considering the antecedents that the applicant shall not enter into the territorial jurisdiction of Chandrapur and Tahsil Bhadravati till conclusion of the trial except for attending the trial and also shall not leave the jurisdiction of the concerned police station without prior permission of the Court.

5. Despite the said condition, the applicant has committed the offences punishable under Sections 3(5), 305, 331(4) by entering into the vicinity of District Chandrapur on 25/08/2024. The another offence is registered against the present applicant under Sections 310(2) of BNS, and Sections 4 and 25 of the Arms Act on 08/09/2024. Thus, the applicant has committed offences while released on bail, contravening the said condition. Thus, he has jumped from the bail condition and therefore, the bail granted to the present applicant deserves to be cancelled.

6. Heard the learned counsel for the applicant, who submitted that the applicant has attended the

concerned police station and submitted diary entries regarding his attendance. It was pointed out that, his name is not mentioned in the FIR. Therefore, the application has been filed with baseless allegations and deserves to be rejected

7. On hearing both sides and on perusal of the investigation papers, as well as the order passed by this court while releasing the present applicant on bail, it reveals that the applicant was arraigned as an accused in a crime registered under Sections 397, 382, 353, 333, 379, 511 read with 34 of the Indian Penal Code, 1860.

While considering the bail application, this Court has considered that there are criminal antecedents against the present applicant of a similar nature. However, considering the period of incarceration of the applicant coupled with the fact that, till date charge-sheet is not framed. He was released on bail, on condition that he shall not enter into the territorial jurisdiction of Chandrapur and Tahsil Bhadravati till culmination of the trial except for attending the trial. But the two offences registered at the Rajura Police Station as well as Majri Police Station shows that he enter into the jurisdiction of the Chandrapur, and committed the offences of a similar nature. The crime chart shows that approximately 16 offences are registered against the present applicant of similar nature.

8. Admittedly, the law is well settled as far as the cancellation of bail is concerned, the overwhelming and supervening circumstances are required. 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.

9. 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.

10. Thus, in the light of the observation of the Hon'ble Apex Court, and considering the facts of the present case, it is revealed that the applicant has contravened the bail conditions by committing similar offences. Thus, involvement of the present applicant appears to be there continuously after releasing him on bail i.e. also in the similar nature of offence. Considering that the applicant has contravened the

terms and conditions and jumped from the bail conditions, the application deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

- a] The bail granted to the present applicant in connection with Crime No. 189/2021 registered with Police Station Majri, District Chandrapur for the offences punishable under Sections 397, 382, 353, 333, 379, 511 read with Section 34 deserves to be cancelled.

The criminal application is **disposed of** .

[URMILA JOSHI-PHALKE, J.]