IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE

PRESENT:
THE HON'BLE JUSTICE TIRTHANKAR GHOSH

C.R.M. (DB) 42 of 2024
With
CRAN 1 of 2026

Ujjivan Small Finance Bank
-versus-
The State of West Bengal & Anr.

For the Petitioner	:	Mr. Rajdeep Mazumder, Sr. Adv., Mr. Moyukh Mukherjee, Adv., Ms. Sagnika Banerjee, Adv., Ms. Triparna Roy, Adv.
For the State	:	Mr. Rudradipta Nandy, Ld. APP, Mr. Arup Sarkar, Adv.
For the Opposite Party No. 2	:	Mr. Bikash Ranjan Bhattacharya, Sr. Adv., Mr. Uday Sankar Chattopadhyay, Adv., Ms. Trisha Rakshit, Adv., Ms. Aishwarya Datta, Adv., Ms. Bidisha Chakraborty, Adv., Ms. Sadia Parveen, Adv.
For CRAN 1 of 2026	:	Ms. S.S. Saha, Adv.
Reserved On	:	**22.04.2026**
Judgement On	:	**24.04.2026**

Tirthankar Ghosh, J. :-

The present application has been preferred challenging the order dated 29.09.2023 passed by the Learned Chief Judicial Magistrate, Paschim Medinipur in connection with Kotwali Police Station Case No. 177 of 2023 dated 25.02.2023 corresponding to G.R. Case No. 781 of 2023, wherein the petitioner being the de-facto complainant of the case has challenged the order of bail granted to one Moumita Addya Kar.

The allegations made in the FIR which was initiated by one Anirban Biswas, Area Manager of Ujjivan Small Finance Bank, are as follows:

a. Moumita Addya Kar is an employee working at Ujjivan Small Finance Bank Limited (Midnapur Cluster) having office at Monima Palace, Rajabazar, opposite Head Post Office, Midnapur, West Bengal. She was engaged as a Customer Relationship Officer and was entrusted with the job to process loan, collect the loan instalment amount from the customers and to deposit the same with the Branch office.

b. On 18th January 2023, one of the customers, namely Baisakhi Kajji of Centre No. 445 visited the Branch and informed that she had not taken any loan from the bank but a loan of Rs. 50,000/- was shown against her name and after verifying her CIBIL, she asked for investigation on the issue. During an internal investigation being conducted as to whether Mrs. Kajji applied for a loan of Rs. 50,000/- through the Customer Relationship Officer, Moumita Addya Kar, it was found that the Customer Relationship Officer informed that the loan had been cancelled.

c. An internal investigation was conducted across six centers from where it reflected that Moumita processed huge number of customer loans, collecting their KYC and opened their Savings Bank Accounts showing fake customers, disbursed the loans and forfeited them and it was also found in course of the investigation that by utilising the bank's money, she had been running a parallel lending company under the name and style of Amrita Financial Services Private Limited in connivance with Sheuli Dey. On verification through MCA, the existence of Amrita Financial Services Private Limited was not found and it was unearthed that about 65 customers loan were forfeited, which amounts to Rs. 34,52,000/- out of which the outstanding remained as Rs. 30,53,617/-. The complainant apprehends that day by day, the list of such fake customers were increasing and the loan account could reach Rs. 70,00,000/- with 145 customers.

d. During internal investigation, the accused Moumita Addya Kar through a third-party cheque deposited an amount of Rs. 2,55,700/- out of the total misappropriated amount which certified her involvement in the offence. It was also found that the accused along with one Sheuli Dey committed such acts of cheating, criminal breach of trust by banker, forgery of documents and criminal conspiracy.

e. The complainant therefore requested the Inspector In-Charge of Kotwali Police Station, Medinipur to register a complaint and investigate the case against the accused persons namely, Moumita Addya Kar and Sheuli Dey.

On the basis of the aforesaid complaint, Kotwali Police Station Case No. 177 of 2023 dated 25.02.2023 was registered for investigation under Sections 419, 420, 406, 409, 34 of the Indian Penal Code.

The present application has been preferred for cancellation of the interim bail granted to the accused Moumita Addya Kar on 29.09.2023. Mr. Mazumder, Learned Senior Advocate appearing on behalf of the petitioner, contended that the accused being a Customer Relationship Officer of the petitioner Bank was placed in a position of trust, confidence and responsibility, which she misused and betrayed. The accused was handling public money and having misconducted herself while discharging her official duty as an employee of the Bank eroded public confidence in the banking system. As such, it was prayed that the interim bail which was granted on 29.09.2023 by the Learned Chief Judicial Magistrate, Paschim Medinipur be cancelled. Elaborating his argument, Learned Advocate for the petitioner submitted that the genesis of the present case lies in the complaint dated 18.01.2023, when a customer namely, one Baisakhi Kajji approached the Bank stating that although she had not availed any loan, a loan amount of Rs. 50,000/- was reflecting against her account. Upon internal enquiry, it was found that the accused had processed loan applications using customer's KYC details, subsequently, misrepresenting that such loans were cancelled, while in reality she disbursed and siphoned off the funds. The investigation further disclosed that the accused systematically created fake accounts, manipulated loan disbursements and misappropriated the funds for personal gain including routing money through fictitious entities such as Amrita Financial Services Private Limited, which do not exist. According to the petitioner, the magnitude of the offence is grave and alarming and the petitioner during the internal enquiry was able to detect fraud of approximately Rs. 34 lakhs involving around 65 customers. Consequent to such detection, a complaint was filed with Kotwali Police Station which led to registration of the case. The materials collected in course of the investigation as seizure are loan documents, customer complaints, bank statements, ATM transaction reports and biometric data. The aforesaid acts clearly established a strong prima-facie case against the accused/opposite party no. 2 and the transaction reports matched with the ATM withdrawals and the presence of the accused/ opposite party No. 2, demonstrating a systematic modus operandi involving misuse of customer's credentials, OTP manipulation through fake mobile numbers and subsequent destruction of evidence such as SIM cards. Such materials unequivocally demonstrated the active and central role played by the accused/opposite party No.2 in commission of the offences. As such, the investigating authorities thought it fit and proper to arrest the accused/ opposite party No. 2 on 31.08.2023. Surprisingly, the Learned Chief Judicial Magistrate granted interim bail on 29.09.2023 within a short span of time without adequate consideration of the gravity and seriousness of the allegations.

The petitioner thereafter preferred an application for cancellation of interim bail before the Learned Sessions Judge, Paschim Medinipur and the Learned Sessions Court by order dated 19.12.2023, was pleased to reject the prayer for cancellation of interim bail, primarily on the sole ground that the opposite party No. 2 did not violate the conditions of interim bail. Subsequently, charge-sheet was submitted on or about 31.08.2024 under Sections 419/420/409/406/34 of Indian Penal Code along with Sections 467/468/470/471 Indian Penal Code, against the accused/opposite party no. 2 and one Sheuli Dey. The charge-sheet revealed that the accused cheated nearly 120 customers, which exceeded total amount of Rs. 56 lakhs and was approaching approximately Rs. 1 crore.

Learned Advocate for the petitioner argued that the interim bail which was granted to the accused/opposite party no. 2 by order dated 29.09.2023 should be cancelled by this Court. In order to substantiate his argument, it was submitted that it is settled proposition of law that an order granting interim bail can be assailed on two broad grounds which are, (i) The propriety and legality of the order granting bail and (ii) The supervening circumstances and/or post-bail conduct of the accused. The petitioner submitted that he intended to confine his argument and/or challenge so far as the manifest impropriety of the order granting interim bail by the Learned Chief Judicial Magistrate, Paschim Medinipur is concerned. According to the petitioner, a bare perusal of the interim bail order would reflect that the Learned Court below was persuaded to grant such bail primarily on the grounds:

a) There was no prima facie documentary evidence against the accused;

b) That the accused was not holding a key position;

c) That the accused is a woman and the trial is likely to take time;

d) That the offences are magistrate triable.

Petitioner contends that such considerations are factually erroneous or legally not tenable, rendering the order perverse and unsustainable. During the course of the investigation, substantial materials were collected, which directly contradict the very foundation on which the interim bail was granted. The prosecution placed on record seizure materials including photographs and CCTV footage clearly depicting opposite party No. 2 along with co-accused Sheuli Dey withdrawing money using ATM card issued in the name of customers of the petitioner Bank. Further, financial trail revealed that funds were transferred from the petitioner Bank into the account of opposite party No. 2 and thereafter, siphoned off to entities such as Amrita Financial Services Private Ltd., which clearly establishes a systematic modus operandi of misappropriation. Such materials formed part of the charge-sheet and unequivocally established the existence of strong prima facie documentary evidence against the accused/opposite party No. 2. It was further contended that the finding of the Learned Court, that opposite party No. 2 did not enjoy a key position is wholly misconceived and immaterial in the facts of the present case, as a Customer Relationship Officer she stood in a fiduciary relationship with the complainant Bank and had direct access to customers, their KYC documents and banking processes. The abuse of such position of trust is evident from the charge-sheet as well as the multiple complaints lodged by customers demonstrating the manner in which they were systematically deceived. In offences involving breach of fiduciary duty and misappropriation of public money, the nature of access and trust reposed assumes greater significance than the nomenclature of the post held. Petitioner further challenged the ground assigned by the Learned Magistrate that interim bail ought to be granted, merely because the accused is a woman and trial may take time. It was contended that such factors may be relevant in appropriate cases, but this should not override the seriousness of the allegations, particularly in cases involving large-scale financial fraud affecting public money and institutional integrity. Additionally, it was contended that in placing undue emphasis on such considerations, the Learned Court failed to balance the gravity of the offence with the settled principles governing grant of interim bail and the further reasoning of the Learned Magistrate that the offences complained of are Magistrate triable and is also not acceptable. At the relevant time, when interim bail was granted, investigation under Section 409 of the Indian Penal Code was going on and the said offence by its very nature and severity, cannot be treated lightly. The Section is not Magistrate triable and the same has been wrongly observed by the Learned Court. It was further reiterated by the petitioner that the chain of evidence which was collected by the investigating agency as is reflected from the charge-sheet, particularly the transaction reports of ATM withdrawals which were meticulously analysed and compared with the bank account details of the accused and co-accused, as well as the specific timing of their presence at the ATM location, do unmistakably point towards the direct involvement of the accused/ opposite party No. 2 in the unauthorised withdrawal of funds. It was further contended that the accused/ opposite party No. 2 was involved in a deliberate systematic scheme of fraud while she was discharging duties in her official capacity and as such, granting an interim bail within a period of 30 days without assigning any reason do frustrate the purpose of custody which has been enshrined in the Code.

It was further canvassed before this Court that even at the present stage when the charge-sheet has been filed, the interim bail of the accused/opposite party no. 2 should be cancelled by the High Court as at the time when the petitioner initially approached for cancellation of the interim bail, the investigation was still in progress and the charge-sheet was not submitted. Subsequently, the charge-sheet was submitted on 31.08.2024. The accused/ opposite party No. 2 on several occasions sought adjournments and adopted dilatory tactics which contributed to the delay in the present proceeding and the accused/opposite party no. 2 as such should not be allowed to take advantage of the grounds of delay or the charge-sheet having been submitted she may be allowed to continue on interim bail. Learned Advocate for the petitioner emphasized on the issue that mere rejection of the cancellation of bail application by the Learned Sessions Court do not prevent the High Court to exercise its jurisdiction as the Sessions Court and the High Court are having concurrent jurisdiction and reference was also made to *Abhimanue v. State of Kerala* reported in

2025 SCC OnLine SC 2037. Lastly, it was contended that the accused/opposite party no. 2 in their opposition failed to make out any grounds for rejection of the cancellation of bail application as the accused mainly emphasized on issues relating to supervening circumstances or post-bail misconduct, which was never the contention of the petitioner before this Court. Summarizing his argument, Learned Advocate for the petitioner submitted that the offence alleged are not of a trivial nature but constitute serious economic offence involving criminal breach of trust, cheating and forgery, which was committed in a planned and systematic manner by abusing an official position. As such, the prayer for interim bail granted should be cancelled.

In order to fortify his argument, Learned Advocate for the petitioner relied upon *Abhimanue v. State of Kerala* reported in *2025 SCC OnLine SC 2037*. Reference was made to paragraphs 14 and 15 which hold as follows:

> ***"14.*** *Before proceeding further, we consider it appropriate to begin our analysis by addressing one of the arguments raised by Mr. Chakraborty. He has challenged the very maintainability of the application filed before the High Court. According to him, once an application under Section 439(2), Cr.P.C. seeking cancellation of bail has been rejected by the Sessions Judge, a second application under the same provision cannot be filed directly before the High Court. Instead, the proper course would be either to challenge the Sessions Judge's order in a petition for revision, or to invoke the inherent powers of the High Court under Section 482, Cr.P.C.*

> ***15.*** *We are unable to agree with this argument. We note that, in the present case, the application before the High Court was filed under "Section 482 r/w 439(2) of Code of Criminal Procedure". That being the case, nothing prevented the High Court from exercising its inherent powers.***"**

Petitioner also referred to *Rameshbhai lallubhai Luni v. Devraj Bhalabhai and Others* reported in *1987 SCC OnLine Guj 76.* Attention of the Court was drawn to paragraphs 5, 8, 9, 12, 13 and 16, which reads as follows:

> ***"5.*** *In effect, the question which falls for consideration by, and the decision of, the Division Bench is whether a person seeking cancellation of a bail order made by a judicial magistrate, can directly approach the High Court under Section 439(2) of the Criminal Procedure Code or he should first approach the concerned Sessions Judge and can approach the High Court only thereafter if he is aggrieved by the order of the Sessions Judge. In other words, the question is, whether, if a person seeking cancellation of a bail order approaches the High Court directly under Section 439(2) of the Criminal Procedure Code, without having recourse to the concerned Sessions Judge for the purpose, his application should be entertained by the High Court or he should be asked first to approach the concerned Sessions Judge.*
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> ***8.*** *It is manifest on a plain reading of Section 439(2) of the Criminal Procedure Code that the jurisdiction to direct that any person, who has been released on bail under Chapter XXXIII of the Code, be arrested and committed to the custody, is vested both in the Court of Session and the High Court, even though the bail order may have been made by a*

magistrate. Even a bare reading of the provision leaves no doubt as to the fact that the jurisdiction of the Court of Session and the High Court is a concurrent jurisdiction and there is nothing in the provision itself even remotely suggesting that the High Court cannot entertain an application for cancellation of bail under Section 439(2) of the Criminal Procedure Code directly, that is, without an approach having been first made to the Court of Session in that behalf. It is also not brought to our notice that a practice has grown in our High Court whereby an application for cancellation of bail is not directly entertained by the High Court and if somebody makes such an application directly to the High Court the is asked to approach the Sessions Court first or that such an application directly made to the High Court is transmitted down to the concerned Sessions Judge for hearing and disposal. In fact, we were told at the Bar that all along such applications for cancellation of bail are directly entertained by the High Court even though the bail order might have been made by a judicial magistrate.

9. *Still, however, the question is whether there is anything in the decision of R.A. Mehta, J. in the case of Rameshchandra Kahiram Vora v. State of Gujarat (supra) to show that there is any embargo on the power of the High Court in entertaining such an application directly or there is even, a practice that such an application should not be entertained by the High Court directly. We find nothing in the decision of R.A. Mehta, J. to show or to suggest that an application for cancellation of bail under Section 439(2) of the Criminal Procedure Code cannot or should not be entertained directly by the High Court. The case before R.A. Mehta, J. was certainly not a case for cancellation of bail under Section 439(2) of the Criminal Procedure Code, but it was a case where anticipatory bail* *was sought from the High Court directly under Section 438 of the Criminal Procedure Code without first making an approach to the concerned Sessions Court. It is true that R.A. Mehta, J. has held that it would be sound exercise of judicial discretion not to entertain each and every application for anticipatory bail directly, by-passing the Court of Sessions. This view of the learned Single Judge is based on the convenience or inconvenience of the parties, and especially of the Public Prosecutor and the investigating officer, because the Sessions Court is nearer to the accused persons and is easily accessible and even if an accused person fails in getting an order for anticipatory hair from the Sessions Court, he has a further remedy to approach the High Court and, therefore, the practice of insisting upon the petitioners for anticipatory bail first approaching the Sessions Court will not prejudice them. It is said that it is only where there are special and exceptional circumstances to approach the High Court directly that the High Court should entertain anticipatory bail applications directly without insisting upon the petitioners first approaching the Sessions Court.*

12. *Furthermore, the incidence of bail cancellation applications may not be as high as that of anticipatory bail applications. In view of that fact also it may not be proper to whittle down the clear effect of the language of Section 439(2) of the Criminal Procedure Code which confers concurrent jurisdiction on the High Court and the Court of Session to cancel bail without any words of limitation such as that the petitioner must first move the Sessions Court and can approach the High Court only if he is aggrieved by the order of the Sessions Court.*

13. *It is true that Section 439(2) of the Criminal Procedure Code invests the High Court and the Court of Session with* *judicial discretion to cancel bail. The question is whether exercise of this discretion embraces or implies any power to restrict the petitioner's choice of forum where the legislature has in clear and unequivocal terms given him such choice by conferring concurrent jurisdiction on two courts. We are clearly of the opinion that the discretion to be exercised is only with respect to the question whether the facts and circumstances of the case would justify cancellation of bail which is already granted. The exercise of discretion cannot be extended to the question whether the petitioner should have approached the Sessions Court first or should be allowed to approach High Court first. In fact, we have also some doubts about High Court's power to evolve any practice which would fly in the face of the clear and unequivocal language of the enactment. The assumption, in our opinion, should be that the Parliament has, advisedly and in all its wisdom, conferred concurrent jurisdiction after considering all pros and cons and all the implications of what it was doing. We may, however, hasten to add that we are deliberately refraining from entering into the question of correctness or otherwise of the view taken by R.A. Mehta, J. in the case of Rameshchandra Kashiram Vora v. State of Gujarat (Supra) in respect of anticipatory bail applications under Section 438 of the Criminal Procedure Code because we feel that we are not called upon to enter into that question for the purpose of deciding the present reference. We may only note that a view similar to one taken by R.A. Mehta, J. in respect of anticipatory bail applications is taken by certain other High Courts also, to wit, by the Rajasthan High Court in Hajialisher v. State of Rajasthan (1376 Cri. L.J. 16578), by the Karnatak High Court in K. Iyya and etc. v. State of Karnataka (1985 Cr. L.J. 214) and by the Punjab and Haryana High Court in Chhajju Ram Godara v. State of Haryana (1978 Cr. L.J. 608). A contrary* *view has also been taken in Mohan Lal v. Prem Chand (AIR 1980 Himachal Pradesh, 36) which is a Full Bench decision. There is also the case of Amiya Kumar Sen v. State of West Bengal (1979 Cr. L.J. 288) wherein the propositions laid down are (i) choice is given to the petitioner for anticipatory bail to choose either of the forums that is either the High Court or the Sessions Court and (ii) this choice is, however, restricted, in the sense that he cannot approach both the forums one after the other. In that case, an application for anticipatory bail was first made to the Sessions Court and it was rejected by the Sessions Court and then a fresh application for anticipatory bail was made to the High Court but it was held that it cannot be made because the party can approach either the Sessions Court or the High Court and not both the courts even though it may be one after the other. One may or may not agree with this view but the necessary corollary which flows from the view taken by the Calcutta High Court in this decision is that one can apply directly to the High Court for anticipatory bail under Section 438 of the Criminal Procedure Code without first approaching the Sessions Court. But these conflicting views are all in respect of anticipatory bail applications under Section 438, Criminal Procedure Code.*

16. *We are in respectful disagreement with the aforesaid view, because we find that the Parliament must be assumed to have considered all the implications of conferring concurrent jurisdiction on two courts, one superior and the other inferior, and must then have deliberately and advisedly conferred concurrent jurisdiction. Once concur-current jurisdiction is conferred without limiting the choice of forum to which a party may take recourse, no practice which runs counter to such a provision can be countenanced. In our view, considerations of appropriateness cannot be allowed to arise in such a case. When a right is given to a party to choose one* *or the other forum, he must be taken to be the best Judge as to the forum which would be more convenient to him. We feel, with due respect, that the choice which the legislature has given to a party in respect of the forum to be taken recourse to by him, cannot be taken away by the High Court even for the reasons mentioned in the aforesaid decision in 1972 Cr. LJ 1607."*

Petitioner further referred to *State of West Bengal v. Noor Ahmed* reported in *2002 SCC OnLine Cal 88,* and drew the attention of the Court to paragraphs 14, 15 and 16, which reads as follows:

"14. *In view of the aforesaid two decisions of the Apex Court we are of the view that intervening misconduct on the part of the accused is not the only ground for cancellation of bail. When an accused has been earlier granted bail by ignoring convincing materials on record or on a wrong interpretation of law is also equally good ground for cancellation of bail. Such circumstances for cancellation of bail may be only illustrative but certainly not exhaustive. If an accused has been granted bail in a case of a serious offence having far reaching effect by ignoring convincing materials on record or on a wrong interpretation of law, the Superior Court has always jurisdiction to correct such abuse of power and cancel the bail.*

15. *In the instant case we have no doubt in our mind to hold that the case against the opposite parties is not of an ordinary case of extortion. The type of extortion allegedly committed by the opposite parties is bound to adversely affect the trade and commerce of the country and also our foreign exchange income. It is bound to create panic in the mind of those*

> *engaged in trade and commerce in view of the serious nature of the allegation made against the opposite parties in the complaint and due to the perverse order passed by the learned Magistrate and hence we have no hesitation in our mind to hold that the bail of the accused must be cancelled.*
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> ***16.** Ultimately, in view of the aforesaid position of law, we are unable to accept the contention of the learned counsel for the opposite parties that even if the accused was wrongly and improperly granted bail, such bail cannot be cancelled subsequently merely on that ground unless it is found that the accused persons have misconducted themselves after their release on bail.***"**

Attention of the Court was drawn to *Puran v. Rambilas and Another* reported in *(2001) 6 SCC 338,* on the ground that bail can be cancelled if in the order of granting bail, there is serious infirmity and to that effect, emphasis was made on paragraphs 11, 12 and 13, which states as follows:

> **"11.** *Further, it is to be kept in mind that the concept of setting aside the unjustified illegal or perverse order is totally different from the concept of cancelling the bail on the ground that the accused has misconducted himself or because of some new facts requiring such cancellation. This position is made clear by this Court in Gurcharan Singh v. State (Delhi Admn.) [(1978) 1 SCC 118 : 1978 SCC (Cri) 41 : AIR 1978 SC 179] . In that case the Court observed as under: (SCC p. 124, para 16)*
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> > *"If, however, a Court of Session had admitted an accused person to bail, the State has two options. It may move the Sessions Judge if certain new circumstances have arisen which were not earlier*

> *known to the State and necessarily, therefore, to that court. The State may as well approach the High Court being the superior court under Section 439(2) to commit the accused to custody. When, however, the State is aggrieved by the order of the Sessions Judge granting bail and there are no new circumstances that have cropped up except those already existing, it is futile for the State to move the Sessions Judge again and it is competent in law to move the High Court for cancellation of the bail. This position follows from the subordinate position of the Court of Session vis-à-vis the High Court."*

12. *It must be mentioned that in support of the above submission Mr Lalit had also relied upon the authorities in the cases of Subhendu Mishra v. Subrat Kumar Mishra [2000 SCC (Cri) 1508 : 1999 Cri LJ 4063] , State (Delhi Admn.) v. Sanjay Gandhi [(1978) 2 SCC 411 : 1978 SCC (Cri) 223] and Bhagirathsinh v. State of Gujarat [(1984) 1 SCC 284 : 1984 SCC (Cri) 63] . These need not be dealt with separately as they are of no assistance in a case of this nature where bail has been cancelled for very cogent and correct reasons.*

13. *Our view is supported by the principles laid down in the case of Gurcharan Singh v. State (Delhi Admn.) [(1978) 1 SCC 118 : 1978 SCC (Cri) 41 : AIR 1978 SC 179] . In this case it has been held by this Court that under Section 439(2), the approach should be whether the order granting bail was vitiated by any serious infirmity for which it was right and proper for the High Court, in the interest of justice, to interfere.*"

Petitioner also referred to *Ajwar v. Waseem and Others* reported in *(2024) 10 SCC 768,* and stressed the parameters of granting bail on being violated, which may result in cancellation, to that effect, attention was drawn to paragraphs 26 and 27 of the reported judgment, which would be quoted later.

Attention of the Court was drawn to *X v. State of Maharashtra* reported in *2023 SCC OnLine SC 279*, wherein it was observed that addition of a serious offence can be a circumstance for cancellation of bail of the accused and to that effect, emphasis was laid on paragraphs 30 and 31 of the said judgment which reads as follows:

> ***"30.*** *In Pradeep Ram v. State of Jharkhand called upon to deal with a situation where an accused had been bailed out in a criminal case in which new offences were added subsequently and a question arose as to whether it would be necessary to cancel the bail granted earlier for taking the accused in custody, a Division Bench of this Court took pains to examine the view taken by several High Courts including the High Courts of Rajasthan, Madras, Allahabad and Jammu and Kashmir as also the observations made by this Court in previous decisions on this aspect and held thus:—*
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> > *"31. In view of the foregoing discussions, we arrive at the following conclusions in respect of a circumstance where after grant of bail to an accused, further cognizable and non-bailable offences are added:*
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> > *31.1. The accused can surrender and apply for bail for newly added cognizable and non-bailable offences. In event of refusal of bail, the accused can certainly be arrested.*

31.2. The investigating agency can seek order from the court under Section 437(5) or 439(2) CrPC for arrest of the accused and his custody.

31.3[Ed. : Para 31.3 corrected vide Official Letter dated 31-7-2020.]. The court, in exercise of power under Section 437(5) or 439(2) CrPC, can direct for taking into custody the accused who has already been granted bail after cancellation of his bail. The court in exercise of power under Section 437(5) as well as Section 439(2) can direct the person who has already been granted bail to be arrested and commit him to custody on addition of graver and non-bailable offences which may not be necessary always with order of cancelling of earlier bail.

31.4. In a case where an accused has already been granted bail, the investigating authority on addition of an offence or offences may not proceed to arrest the accused, but for arresting the accused on such addition of offence or offences it needs to obtain an order to arrest the accused from the court which had granted the bail.”

31. *As can be discerned from the observations made in Pradeep Ram (supra), addition of a serious offence can be a circumstance where a Court can direct that the accused be arrested and committed to custody even though an order of bail was earlier granted in his favour in respect of the offences with which he was charged when his application for bail was considered and a favourable order was passed. The recourse available to an accused in a situation where after grant of bail, further cognizable and non-bailable offences are added to the FIR, is for him to surrender and apply afresh for bail in respect of the newly added offences. The investigating*

> *agency is also entitled to move the Court for seeking the custody of the accused by invoking the provisions of 437(5) and 439(2) Cr. P.C., falling under Chapter XXXIIII of the Statute that deals with provisions relating to bails and bonds. On such an application being moved, the Court that may have released the accused on bail or the Appellate Court/superior Court in exercise of special powers conferred on it, can direct a person who has been released on bail earlier, to be arrested and taken into custody.***"**

Lastly, petitioner relied upon *X v. State of Bihar* reported in *2025 SCC Online SC 1490*, to emphasize that when facts are grave and shakes the conscience of the Court, bail should be cancelled. To that effect, reference was made to paragraph 24, which reads as follows:

> ***"24.*** *It is trite that bail once granted should not be cancelled ordinarily, but where the facts are so grave that they shake the conscience of the Court; and where the release of the accused on bail would have an adverse impact on the society, the Courts are not powerless and are expected to exercise jurisdiction conferred by law to cancel such bail orders so as to subserve the ends of justice. The present one is precisely a case of such nature."*

Learned Advocate appearing for the accused/opposite party No.2 submitted that once the application under Section 439(2) of the Cr.PC was cancelled/dismissed by the Learned Sessions Judge on merit, then in that case the order of granting bail cannot be challenged on merit as parameters of granting bail and cancellation of bail are completely different.

To that effect, Learned Advocate relied upon *Yogesh Kumar Garg v. State of UP and Another*, reported in *(2024) SCC online All 8092*, and referred to the following paragraph:

> *"...In the case at hand, the applicant/first informant herein had already approached the Court of Sessions, Ghaziabad seeking cancellation of the bail granted by it under Section 439(2) of the Cr. P.C. The Court of Sessions vide order dated 10.9.2024 refused to cancel the bail already granted. In the opinion of the Court, the applicant having exercised his option to seek cancellation under Section 439(2) of Cr. P.C. before the Court of Sessions cannot now approach this Court by moving another Bail Cancellation Application under Section 439(2) Cr. P.C. A challenge would have to be made to the orders rejecting the Bail Cancellation Application and the same cannot be achieved in the present proceedings. Had the applicant/first informant approached this Court at the first instance seeking the cancellation of the bail granted to the opposite party No. 2 by the Court of Sessions by its order dated 23.12.2022 invoking the provisions of Section 439(2) of Cr. P.C., the application would be maintainable of Section 439(2) of Cr. P.C., the application would be maintainable..."*

On the same issue, Learned Advocate for the opposite party No. 2, referred to *Kailash Kumar v. State of Himachal Pradesh & Anr.* reported in

2025 SCC Online SC 3035, and drew the attention of the Court to paragraph 10, 12, 13 of the judgment, which reads as follows:

> ***"10***. *The decision of this Court in Ajwar v. Waseem*[1]*, relied on by the High Court, has been perused. In terms of such decision, while seized of an application for cancellation/ revocation of bail, the considerations (illustrative, not exhaustive) which ought to weigh with the courts are whether: (i) the accused has misused the concession of liberty; (ii) he has been delaying the trial; (iii) he has been influencing/ threatening the witnesses; (iv) he has been tampering evidence in any manner; and (v) there has been any supervening circumstance after grant of bail warranting a relook. The decision also lays down that orders granting bail could be interfered with if the same are found to be perverse or illegal in the sense that the Court's conscience is shocked or extraneous material has been considered.*
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> ***12***. *Instead, what the High Court did was to embark upon conducting sort of a mini-trial at the stage of considering whether the bail should be cancelled or not. According to the High Court, presence of the appellant and the co-accused at the scene of occurrence and causing of injury to the complainant-PW1 by the appellant being undisputed and notwithstanding that the injury caused by him is simple, there was common intention for which Section 34 of the IPC is attracted. There are also other observations in the impugned judgment having the potential of affecting the trial and sounding the death knell for the appellant, which we do not consider necessary to refer at this stage.*
>
> ***13***. *Suffice to observe, liberty of an individual being a precious right under the Constitution, the Courts ought to be wary that such liberty is not lightly interfered. We are*

*satisfied that there was no valid reason for the High Court to cancel the bail without there being any material to show, even prima facie, that conduct of the appellant post grant of bail has been such that he should be deprived of his liberty. There are also no allegations of influence being exerted or threat extended to the witnesses or of tampering the evidence. Material to demonstrate that dilatory tactics have been adopted to procrastinate the trial is also conspicuous by its absence.***”**

On the same issue, Learned Advocate relied upon *Ajwar v. Waseem and Others* reported in (*2024) 10 SCC 768*, and referred to paragraph 26, 27, 28, 29 and 30 which holds as follows:

“Relevant parameters for granting bail

26. *While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. [Refer : Chaman Lal v. State of U.P. [Chaman Lal v. State of U.P., (2004) 7 SCC 525 : 2004 SCC (Cri) 1974] ; Kalyan Chandra Sarkar v. Rajesh Ranjan [Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528 : 2004 SCC (Cri) 1977] ; Masroor v. State of U.P. [Masroor v. State of U.P., (2009) 14 SCC 286 : (2010) 1 SCC (Cri) 1368] ; Prasanta*

Kumar Sarkar v. Ashis Chatterjee [Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765] ; Neeru Yadav v. State of U.P. [Neeru Yadav v. State of U.P., (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527] ; Anil Kumar Yadav v. State (NCT of Delhi) [Anil Kumar Yadav v. State (NCT of Delhi), (2018) 12 SCC 129 : (2018) 3 SCC (Cri) 425] ; Mahipal v. Rajesh Kumar [Mahipal v. Rajesh Kumar, (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558] .]

27. *It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the superior court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail. Bail can also be revoked by a superior court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on the society resulting in such an order. In P v. State of M.P. [P v. State of M.P., (2022) 15 SCC 211] decided by a three-Judge Bench of this Court [authored by one of us (Hima Kohli, J.)] has spelt out the considerations that must weigh with the Court for interfering in an order granting bail to an accused under Section 439(1)CrPC in the following words : (SCC p. 224, para 24)*

> *"24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [Dolat Ram v. State of*

Haryana, (1995) 1 SCC 349 : 1995 SCC (Cri) 237] . To put it differently, in ordinary circumstances, this Court would be loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court."

Considerations for setting aside bail orders

28. *The considerations that weigh with the appellate court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner. We may add that this list is only illustrative and not exhaustive. However, the court must be cautious that at the stage of granting bail, only a prima facie case needs to be examined and detailed reasons relating to the merits of the case that may cause prejudice to the accused, ought to be avoided. Suffice it is to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused.*

29. *In Jagjeet Singh [Jagjeet Singh v. Ashish Mishra, (2022) 9 SCC 321 : (2022) 3 SCC (Cri) 560] , a three-Judge Bench of this Court, has observed that the power to grant bail under Section 439CrPC is of wide amplitude and the High Court or a Sessions Court, as the case may be, is bestowed with considerable discretion while deciding an application for bail.*

But this discretion is not unfettered. The order passed must reflect due application of judicial mind following well-established principles of law. In ordinary course, courts would be slow to interfere with the order where bail has been granted by the courts below. But if it is found that such an order is illegal or perverse or based upon utterly irrelevant material, the appellate court would be well within its power to set aside and cancel the bail. (Also refer : Puran v. Rambilas [Puran v. Rambilas, (2001) 6 SCC 338 : 2001 SCC (Cri) 1124] ; Narendra K. Amin v. State of Gujarat [Narendra K. Amin v. State of Gujarat, (2008) 13 SCC 584 : (2009) 3 SCC (Cri) 813] .)

Discussion

30. *Keeping in mind the aforesaid parameters, we may now proceed to examine the pleas taken by the parties so as to decide as to whether the impugned orders can be sustained or not. On a careful consideration of the entire records, we are inclined to agree with submission made by the learned counsel for the appellant complainant that the impugned orders are unjustified and suffer from grave infirmity. The primary factor that has swayed the learned Single Judge of the High Court in granting bail to the accused Waseem is that even though the prosecution version is that 11 accused persons had assaulted the appellant complainant and members of his family on indiscriminate firing taking place, only three persons had sustained injuries and two had expired on the side of the appellant complainant. At the same time, serious injuries were also received on the side of the accused which could not be explained by the prosecution. In the case of the accused Nazim, the High Court observed that there was no distinction between the role attributed to him and the co-accused Waseem and that the injuries suffered on the side of the respondent had not been explained by the*

> *prosecution. The High Court has also gone on to observe that the investigation conducted by the police was one-sided and the case set up by the accused side was ignored. In the case of Aslam, his bail application was allowed [Aslam v. State of U.P., 2023 SCC OnLine All 3136] and the learned Single Judge observed that there is a cross-version of the incident inasmuch as the accused side had also received serious injuries which were not satisfactorily explained by the prosecution. In the case of Abubakar, noting that the co-accused Aslam was granted bail by a coordinate Bench and the case of Abubakar was similar to that of Aslam, he was granted [Abubakar v. State of U.P., 2023 SCC OnLine All 5281] the benefit of bail on grounds of parity.*"

In order to substantiate his argument, Learned Advocate chronologically placed the list of events leading to the registration of the case as well as the Court proceedings. According to the Learned Advocate, on 25.02.2023, the complaint was filed by the Area Manager of Ujjivan Small Finance Bank Ltd. against the accused/opposite party no. 2, and Sheuli Dey. The accused/opposite party No. 2, was arrested on 31.08.2023 and produced before the Learned Chief Judicial Magistrate, Paschim Medinipur. Learned Magistrate was pleased to allow the prayer for police remand/custody of the accused for four days. On 14.09.2023, the investigating officer applied for obtaining specimen handwriting of the accused/opposite party no. 2, when the same was allowed and on 18.09.2023, such specimen handwriting of the accused/opposite party no. 2 was also taken. On 22.09.2023, the investigating officer prayed for jail interrogation which was also allowed. On 29.09.2023, the Learned Chief

Judicial Magistrate, Paschim Medinipur was pleased to grant interim bail to the accused/ opposite party no. 2 on stringent conditions, which included, amongst others:

a. Not to leave jurisdiction of the court without the permission of the court;

b. Notify the change of address, keeping operational the mobile numbers;

c. Not to tamper with the evidence or;

d. Not to influence the witnesses and co-operate with the Investigating Officer.

Learned Advocate thereafter submitted that such order of Learned Chief Judicial Magistrate, Paschim Medinipur was challenged before the Learned Sessions Judge, Paschim Medinipur under the provisions of Section 439(2) of the Code of Criminal Procedure by way of filing Criminal Misc. Case No. 5120 of 2023. On 19.12.2023, the Learned Session Judge, Paschim Medinipur was pleased to reject the prayer for cancellation of bail on the grounds that the accused, Moumita Addya Kar was in police custody for four days and there were no material on record, including the case diary, which suggests that the accused violated and or attempted to violate the conditions imposed upon her. On 31.08.2024, charge-sheet was submitted before the Jurisdictional Court and next date i.e. 22.04.2026, date has been fixed for framing of charge.

According to the Learned Advocate, once the Sessions Court has considered all the issues canvassed by the petitioner in respect of the interim bail which was granted on 29.09.2023, which is more than two years and six months ago, at this stage, there are no requirements for taking the accused/opposite party no. 2 into custody. It was further contended that the case is based on documents, charge-sheet has already been submitted and there are no complaints till date that the accused have ever flouted the conditions which have been imposed. Neither any witness has complained that there was any threat or coercion at the behest of the accused. As such, the application for cancellation of bail filed by the petitioner is devoid of merit and the same as such is liable to be dismissed.

I have taken into account the submissions advanced by the Learned Advocate on behalf of the Petitioner and the Accused. Before proceeding with the arguments in respect of the application for cancellation of bail is concerned, the preliminary issue is required to be considered i.e., whether the application under Section 439 (2) of Code of Criminal Procedure preferred by petitioner is maintainable once the petitioner has approached the Learned Sessions Court with similar reliefs which were rejected?

The provisions of Section 439 of Code of Criminal Procedure vests the High Court and Sessions Court with concurrent powers and the petitioner having restricted his submission only to the limited extent of propriety and legality of the order of bail being granted, I am of the opinion, that the order passed by the Learned Sessions Court in Criminal Misc. Case No. 5102 of 2023, vide order dated 19.12.2023, will not operate as a bar, as the High Court apart from exercising its jurisdiction under Section 439(2) of Code of Criminal Procedure is also vested with the inherent powers under

Section 482 of Code of Criminal Procedure. As such the application preferred by the petitioner is maintainable.

Now so far as the other issue is concerned, petitioner's main thrust relates to the following:

i. The quantum of amount in respect of which the accused in discharge of her official capacity, misused the office thereby misappropriating the money, by establishing a fake company namely, Amrit Financial Services Pvt Ltd;

ii. The modus operandi adopted by the accused to deceive the customers by misusing her fiduciary relationship with the bank;

iii. The systematic manner in which huge number of customers have been duped and wrongful loss was suffered by the bank;

iv. The CCTV coverage which reflects the ATM withdrawals in close proximity of time by the accused /opposite party No. 2 and her associates;

v. The observations of the Learned Magistrate in the order dated 29.9.2023 which reflects the issues which weighed with the Learned Magistrate while granting bail to the accused.

Each of the issue canvassed above by the petitioner have definite relevance but at the same time it is to be considered what would be the effect today if the interim bail granted on 29.9.2023 is cancelled after almost 2 years 6 months. There is already a change of circumstance as in the meantime charge sheet has been submitted before the jurisdictional court and the State could not advance any argument as to why the custodial detention as on date is relevant when the charge sheet has been submitted before the jurisdictional court on or about August, 2024.

The Hon'ble Supreme Court in a catena of judgments has categorically observed that in the parlance of Indian criminal jurisprudence, punishment begins only after conviction and an accused continues to enjoy the presumption of innocence until duly tried and found guilty. In *Sanjay Chandra vs. CBI,* reported in *(2012) 1 SCC 40*, it has been observed that the sole object of bail is to secure the presence of the accused at trial and it disapproved the spirit of refusing a bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. It was further observed that the seriousness of a charge is relevant consideration but not the sole determinant to deny bail. The aforesaid spirit has been reflected in several judgments of the Hon'ble Supreme Court including *Kapil Wadhawan vs. CBI*, reported in *2025 SCC Online SC 3038*.

Taking into account the present stage of the criminal case wherein charge sheet has already been submitted and the petitioner was granted bail on 29.09.2023, apart from the fact that the case is absolutely based on documentary evidence, at this stage, the custodial detention which would be a consequence of interfering with the order dated 29.09.2023 granting interim bail by the Learned Magistrate is of no relevance.

Thus, at this stage, I am of the opinion that no interference is called for belatedly in respect of the order under challenge.

As such, the application being **CRM (DB) 42 of 2024** is **dismissed**.

Pending applications if any are consequently disposed of.

A copy of the judgment be forwarded to the learned Trial Court immediately.

All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance of all requisite formalities.

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(Tirthankar Ghosh, J.)