



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1445 OF 2025

Ram Bandu Bomshete
VERSUS
The State Of Maharashtra

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- Mr. M. P Tripathi, Advocate for the Petitioner
- Mr. AAA Khan, APP for Respondent - State

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CORAM : MEHROZ K. PATHAN, J.

DATED : 20.02.2026

PER COURT :

1. The petitioner has approached this Court challenging the order dated 31.07.2025 passed by the learned Sessions Judge, Parbhani, - below Exh. 80, whereby the application for cancellation of bail filed by the prosecution was allowed on the ground of breach of the condition imposed under the order passed below Exhibit 14, i.e., in respect of the return of the mobile phone to accused No. 2 – Ram Bandu Bomshete, the present petitioner herein. The petitioner also challenges the order allowing another application filed below Exhibit 81 by the prosecution for cancellation of bail on account of alleged breach of the conditions of the bail order dated 08.12.2023, pursuant to which the petitioner was released on bail.

2. Learned counsel for the petitioner submits that the application at Exhibit 80, seeking action for breach of the condition imposed under the order passed below Exhibit 14, and the application at Exhibit 81, seeking cancellation of bail for alleged violation of the bail conditions, were heard together by the learned Sessions Judge. It is submitted that the learned Sessions Judge has erroneously concluded that the petitioner violated the condition of not tampering with the evidence by handing over the mobile phone.

3. Learned counsel for the petitioner submits that the sole reason for allowing both the applications filed by the prosecution is that the IMEI number of the mobile phone handed over to the petitioner pursuant to the order passed under Section 457 of the Cr.P.C. was incorrectly mentioned in the lost report lodged at Police Station, Kalamboli, Mumbai. It is submitted that the said mistake was inadvertent, as IMEI numbers are often confusing, and the cousin brother of the present petitioner, who lodged the report, mistakenly mentioned an incorrect IMEI number while filing the complaint.

4. It is further submitted that upon realizing the said error, an application was moved before the concerned Police Station for correction of the IMEI number, and the same was subsequently rectified at the request of the applicant. However, before such correction could be effected, both the applications filed by the

prosecution were allowed by the learned Sessions Judge, and the bail earlier granted to the petitioner on merits vide order dated 08.12.2023 came to be cancelled.

5. Learned counsel for the petitioner, therefore, submits that the liberty of the petitioner has been curtailed on a non-existent ground. It is contended that, at the time of granting bail on 08.12.2023, the learned Sessions Judge did not impose any condition restraining the petitioner from handing over the mobile phone. The condition that the applicant shall not hand over the mobile phone to any person till the conclusion of the trial was imposed only while deciding the application filed by the petitioner under Section 457 of the Cr.PC. seeking custody of the mobile phone on suprutnama.

6. It is, therefore, submitted that there was no breach of any condition of the bail order, and on such untenable grounds, the petitioner's liberty has been curtailed. The learned counsel further submits that the law relating to cancellation of bail is well settled, namely, that an order granting bail can be interfered with only in the event of supervening circumstances. In the present case, no such supervening circumstance exists.

7. It is further pointed out that the petitioner has admitted the seizure of the mobile phone as reflected at Exhibit (Page 75) and has conceded that the seizure panchnama may be read in evidence. In

view of the same, the reasons assigned by the learned Sessions Court while cancelling the bail of the petitioner are erroneous and liable to be interfered with by this Court.

8. Learned counsel for the petitioner submits that, considering the limited role attributed to the petitioner in the alleged offence of kidnapping and murder of a minor child, he was released on regular bail vide order dated 08.12.2023. While granting bail, the learned Court recorded a finding that there was every likelihood that the applicant was not aware of the alleged kidnapping or of the intention of the main accused No. 1 – Balaji to kill the minor child who was accompanying him at the relevant time.

9. It is submitted that the only role attributed to the petitioner is that he had provided meals to the main accused while the latter was in the company of the minor child and a juvenile accused. In these circumstances, learned counsel contends that this is a fit case wherein this Court may exercise its extraordinary inherent powers to set aside the order cancelling the bail of the present petitioner.

10. As against this, the learned APP vehemently opposes the present application on the ground that the petitioner has violated the terms and conditions of the order dated 05.06.2024, whereby custody of the mobile phone was handed over to him subject to the condition that he shall not hand over the said mobile phone to any

other person in any manner till the conclusion of the trial.

11. It is further submitted that, while granting bail to the petitioner vide order dated 08.12.2023, the learned Sessions Judge had imposed a specific condition that the petitioner shall not directly or indirectly pressurize any witness or tamper with the prosecution evidence. According to the learned APP, the petitioner has thereby violated Condition No. 4 imposed under the order dated 08.12.2023 passed by the learned Additional Sessions Judge, Parbhani, in Criminal Bail Application No. 947 of 2023.

12. The learned APP submits that the learned Sessions Judge, Parbhani has rightly taken into consideration both aspects, namely, the breach of the condition regarding custody of the mobile phone and the violation of the bail conditions, and has found it to be a fit case for cancellation of bail. It is contended that there is no error in the impugned order challenged by the petitioner and that the same deserves to be upheld.

13. It is further submitted that nine witnesses have already been examined and only four witnesses remain to be examined. If the petitioner is released on bail at this stage, there is every likelihood that he may again tamper with the evidence and cause prejudice to the prosecution case in the ongoing trial. The learned APP, therefore, prays for dismissal of the present writ petition.

14. I have gone through the impugned order dated 31.07.2025 passed by the learned Sessions Judge, Parbhani, by a common order below Exhibits 80 and 81, whereby the applications filed by the prosecution were allowed on the ground of alleged violation of the conditions imposed while deciding the application under Section 457 of the Cr.P.C. vide order dated 05.06.2024, as well as the bail order dated 08.12.2023 granting bail to the petitioner in the present crime.

15. A perusal of the conditions does indicate that the petitioner was directed not to hand over the mobile phone to any other person till the conclusion of the trial. However, the case of the petitioner is that the said mobile phone was given to her cousin brother, and thereafter it was lost, pursuant to which a complaint was lodged with Kalamboli Police Station, Mumbai. Learned counsel for the petitioner submits that the incident of the mobile phone being lost was not a deliberate or intentional act on the part of the petitioner so as to amount to a wilful violation of the condition imposed by the learned Sessions Court vide order dated 05.06.2024.

16. The petitioner has already admitted the seizure of the mobile phone, which also reflects the IMEI number in the seizure panchnama, and therefore there was no reason or occasion for the petitioner to tamper with the evidence.

17. The petitioner had initially submitted a complaint to Kalamboli Police Station on 30.07.2025 reporting that the mobile phone was missing. However, the IMEI number mentioned in the said missing complaint was incorrect. While deciding the applications at Exhibits 80 and 81 filed by the prosecution, the learned Sessions Court appears to have been influenced by the fact that the IMEI number stated in the complaint dated 30.07.2025 did not match the IMEI number reflected in the seizure panchnama at Exhibit P-75.

18. The explanation offered by the petitioner that there was confusion regarding the IMEI number cannot be ruled out, particularly in view of the fact that two IMEI numbers are mentioned in the seizure panchnama at Exhibit P-75, and the missing complaint was lodged by the petitioner's cousin brother at Mumbai, and not by petitioner.

19. Thus, the reasons assigned by the learned Sessions Judge, Parbhani for cancellation of the petitioner's bail appear to rest primarily on the circumstance that the mobile phone was lost. It appears that solely on this ground, the bail granted to the petitioner came to be cancelled.

20. It is well settled by various judgments of the Hon'ble Supreme Court, particularly in *Puran vs. Rambilas (2001) 6 SCC 338*, that the liberty of an individual who has been granted bail cannot be lightly

curtailed, and that Courts must be slow in interfering with an order granting bail. The parameters for cancellation of bail are entirely distinct from those applicable while considering an application for grant of regular bail.

21. Though the impugned order dated 31.07.2025 refers to alleged tampering with evidence by the petitioner, the fact remains that the petitioner has admitted the seizure of the mobile phone under seizure panchnama Exhibit P-75, as such no prejudice would be caused to the prosecution case. In such circumstances, the mere loss of the mobile phone ought not to have been treated as a sufficient ground to cancel the bail granted to the petitioner, particularly when the bail was granted on merits during trial.

22. On merits, it was found that the petitioner had only accompanied the main accused, Balaji, the minor victim girl, and a juvenile accused for a brief period for the limited purpose of providing meals to the main accused on the date of the incident. Apart from this circumstance, the charge-sheet does not disclose any other substantive material connecting the petitioner with the alleged offence. The charge-sheet further reflects that the mobile phones of the main accused have already been seized and exhibited in evidence.

23. The fact that the petitioner, being an accused, has admitted the seizure panchnama ought to have been given due weight while

deciding the application for cancellation of bail. Moreover, the subsequent correction of the IMEI number by lodging a fresh complaint at Kalamboli Police Station was not on record when the learned Sessions Judge passed the impugned order dated 31.07.2025. The said corrected complaint has now been placed on record by way of an affidavit filed by the petitioner, annexed as Exhibit G (page 91) to the petition. In view thereof, the very basis for cancellation of bail no longer survives.

24. The petitioner further undertakes to remain present before the Trial Court on each and every date of hearing without fail. The apprehensions expressed by the learned APP can adequately be addressed by imposing additional stringent conditions.

25. In these circumstances, the impugned order passed by the learned Sessions Judge, Parbhani below Exhibits 80 and 81 warrants interference. Hence, the following order:

ORDER

- i. The Criminal Writ Petition is allowed.
- ii. The impugned order dated 31.07.2025, passed by the Sessions Judge, Parbhani in Application below Exh-80 and 81 in Sessions Case No. 260 of 2023 is quashed and set aside.
- iii. The applicant was released on regular bail vide order dated 08.12.2023 by the Additional Sessions Judge, Parbhani in Cri. Bail Application No. 947 of 2023 on personal bond and surety

of Rs. 50,000/-. The applicant shall now be released on the same bonds executed by him in view of the earlier bail order dated 08.12.2023, on the following conditions :-

- A)** The petitioner shall attend the concerned Police Station on the First and Third Monday of every month, between 10:00 a.m. and 12:00 noon, until conclusion of the trial.
- B)** The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court.
- C)** The applicant shall not tamper with the prosecution evidence or attempt to influence or threaten any witness in any manner.

(MEHROZ K. PATHAN, J.)