



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO. 63 OF 2025
IN CRIMINAL BAIL APPLICATION NO. 26 OF 2025

Radha Wd/o Bhikchand Ghitre
Age : 49 years, Occu : Housewife,
R/o : Plot No.37, Raje Sambhaji Colony,
Jadhavwadi, Jalgaon Road, Aurangabad.

... Applicant

Versus

1. The State of Maharashtra,
Through Superintendent of Police,
Aurangabad, Dist. Aurangabad.
2. Police Inspector,
Police Station Shillegaon,
Tq. Gangapur, Dist. Aurangabad.
3. Bhanudas S/o Fakirrao Ghitre
Age : 50 Years, Occu : Teacher,
R/o: Flat No.3, First Avenue,
Jalannagar, Railway Station,
Aurangabad.

... Respondents
[R.No.3 is original
accused No.1]

.....

Mr. D. R. Shelke, Advocate for the Applicant.
Mr. S. G. Sangle, APP for Respondent Nos. 1 and 2-State.
Dr. Anagha N. Pedgaonkar, Advocate for Respondent No.3.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 12.01.2026

Pronounced on : 13.01.2026

ORDER :

1. Instant application by original informant is for cancellation of bail granted to present respondent no.3 by order dated 7.02.2025 in Bail Application No. 26 of 2025 in consequence to registration of crime no. 0193 of 2023 registered at Shillegaon Police Station, District Aurangabad, for offence under Sections 302, 307, 326, 324, 323, 143, 147, 148, 149, 504, 506 of IPC.

2. Taking this Court through the FIR and papers, learned counsel for applicant/informant would submit that applicant is seeking cancellation of bail granted to main accused Bhanudas, against whom there are allegations of overt act by hitting an uprooted iron pole i.e. in assaulting deceased who allegedly suffered instant death. Learned counsel took this Court through the postmortem report and more particularly column no. 19 and would highlight the impact of the assault. He would point out that offence was serious. That, main role was attributed to accused respondent no.3. That, this Court had granted bail on the ground of other accused to be on bail and on account of incarceration for more than one and half years. He would point out that, recently law has been settled that in cases of serious nature, this Court can cancel bail even if it was granted and that, ground of long incarceration is no good ground to extend the benefit

of bail. He pointed out that, considerations for grant of bail were not taken into account by this Court. That, there was no medical reason supported by any material to extend the benefit. Consequently it is his submission that, going by the gravity of the offence, respondent being main accused and being solely responsible for causing death, he was not entitled for bail. In support of above submissions, Learned counsel seeks reliance on the judgment of *Ajwar v. Wasim and another* (2024) 10 SCC 768, *State of Karnataka v. Sri Darshan Etc.* 2025 SCC OnLine SC 1702 and *Anil Kumar Yadav v. State (NCT of Delhi) and another* (2018) 12 SCC 129.

3. Learned APP also joined in urging this Court to cancel the bail and he too would point out that, serious offence is committed. That, prior to the occurrence, application was forwarded to police for extending police protection and it is part of papers. Even according to him, main role is attributed to accused/present respondent no.3 for assaulting deceased with article like iron pipe which he allegedly took over from another accused who had uprooted it. He pointed out that there is video-graph as well as its panchanama on record and thus he submits that, with serious allegations, respondent no.3 was not entitled for benefit of bail. He further submitted that respondent is also not attending trial court.

4. Per contra, learned counsel for respondent no.3 would take this Court through the order passed by this Court while granting bail and would submit that, after considering the submissions and papers, this Court had granted bail on merits. According to her, it is fairly settled position that bail once granted cannot be withdrawn. She urges to take into account the judgment of the Hon'ble Apex Court in the case of *Dolat Ram and ors. v. State of Haryana* (1995) 1 SCC 349 and lastly would submit that there are no circumstances whatsoever for withdrawing the benefit of bail granted earlier. She further submitted that, now charges are already framed and case is awaiting trial.

5. Present application is for cancellation of bail granted by this Court by order dated 07.02.2025 in Bail Application No. 26 of 2025. It seems that even at that time prosecution had opposed grant of bail on the grounds that offence is under Section 302 IPC and there is independent eye witness account regarding assault by present respondent. This court has also taken into account the submission of the then learned APP that there was video-graph of the occurrence. This Court had heard both sides and had made discussion in para 4 of the order. This court had noted that when the process of measurement was in progress on 26.06.2023, alleged incident had taken place. This Court had also noted that Dnyaneshwar had

uprooted the pole/angle and after he handed it over to present respondent no.3, the same was put to use by inflicting blow on the head of deceased as a result of which, he died. This Court in previous order had visited the postmortem report and had noted about probable cause of death to be complications following head injury. Primarily this Court had noted that applicant was behind bars since 22.07.2023 i.e. since almost one and half years, and it was also noted that it was not pointed out to this Court that there were immediate prospects about matter going for trial. At that time, submissions were made across the bar that by that day, even charges were not framed. Such factors cumulatively prevailed over this Court for granting bail by imposing conditions.

6. Now, above order granting bail is sought to be cancelled. However, while advancing the arguments, it is noticed that again grounds/points of merits of the case are tried to be re-agitated by the original complainant. There are no accusations of misuse of liberty nor any supervening circumstances are brought to the notice of this Court so as to recall the order of grant of bail.

7. Law is fairly settled that bail once granted cannot be withdrawn unless in exceptional cases. Law to this extent has been dealt in the case of ***Dolat Ram*** (supra). Very recently also, the Hon'ble Apex Court

in the case of ***Abhimanue v. State of Kerla*** 2025 INSC 1136 has elaborately discussed the judicial precedent on cancellation of bail including the three Judge Bench judgment in the case of ***P. v. State of Madhya Pradesh*** (2022) 15 SCC 211 wherein there is discussion on the aspect of revocation of bail once granted. In the said case, the Kerala High Court had cancelled the bail of five out of the ten accused therein, and in appeal, the Hon'ble Apex Court has set aside the said order of Kerala High Court by leaning in favour of liberty rather than its curtailment. Similar views are echoed in another judgment of the Hon'ble Apex Court in the case of ***Shaikh Irshad @ Monu v. State of Maharashtra*** reported in 2025 LiveLaw (SC) 1185. In the case of ***X v. State of Bihar and Ors.*** MANU/SC/0959/2025, in para 23, the Hon'ble Apex Court has made following observations;

“23. Recently, this Court in the case of Shabeen Ahmad v. The State of Uttar Pradesh and Anr. MANU/SC/0301/2025 : 2025:INSC:307 : (2025) 4 SCC 172 while placing reliance upon the case of Ajwar v. Waseem MANU/SC/0462/2024 : 2024:INSC:438 : (2024) 10 SCC 768 cancelled the bail granted to the Accused in a dowry death case observing as follows:

18.... A superficial application of bail parameters not only undermines the gravity of the offence itself but also risks weakening public faith in the judiciary's resolve to combat the menace of dowry deaths. It is this very perception of justice, both within and outside

the courtroom, that courts must safeguard, lest we risk normalizing a crime that continues to claim numerous innocent lives. These observations regarding grant of bail in grievous crimes were thoroughly dealt with by this Court in Ajwar v. Waseem in the following paras:

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., [MANU/SC/0631/2004 : 2004:INSC:451 : (2004) 7 SCC 525]; Kalyan Chandra Sarkar v. Rajesh Ranjan [MANU/SC/0214/2004 : (2004) 7 SCC 528]; Masroor v. State of U.P. [MANU/SC/0683/2009 : 2009:INSC:613 : (2009) 14 SCC 286]; Prasanta Kumar Sarkar v. Ashis Chatterjee [MANU/SC/0916/2010 : 2010:INSC:752 : (2010) 14 SCC 496]; Neeru Yadav v. State of U.P. [MANU/SC/1208/2014 : 2014:INSC:841 : (2014) 16 SCC 508]; Anil Kumar Yadav v. State (NCT of Delhi) [MANU/SC/1454/2017 : 2017:INSC:1111 : (2018) 12 SCC 129]; Mahipal v. Rajesh Kumar [MANU/SC/1677/2019 : 2019:INSC:1325 : (2020) 2 SCC 118].

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 12-01-2026 (Page 5 of 7) 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. [MANU/SC/0587/2022 : 2022:INSC:514 : (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) Code of Criminal Procedure 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, MANU/SC/0547/1995 : 1994:INSC:548 : (1995) 1 SCC 349]. 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.”

8. In yet another case of *Ayub Khan v. The State of Rajasthan* 2024 INSC 994, the Hon’ble Apex Court has reiterated that bail can only be cancelled upon supervening circumstances or abuse of liberty, not merely because of the gravity of the offence.

9. Bearing above judicial precedent on cancellation of bail in mind, in the considered opinion of this court, no exceptional ground has been put forth except stating that respondent is main accused and offence is serious. Several above referred citations are relied and there is no dispute that the Hon’ble Apex Court had cancelled the bail in those cases. On court query as to whether there is non compliance or

breach of any condition imposed by this Court while granting bail, learned APP answered in negative. Moreover, it is brought to the notice of this Court by learned counsel for respondent that charge is already framed and matter is committed, but no trial calendar is reported to be drawn yet. Resultantly, no ground being made out for cancellation of bail, following order is passed :

ORDER

Application stands rejected.

[ABHAY S. WAGHWASE, J.]

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