



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Bail Cancellation Application No. 75/2024

State Of Rajasthan, Through Pp

----Petitioner

Versus

Smt Seema Jakhar Spouse/o Sukhram Kaliram, Aged About 30 Years, R/o Village Nandiya Prabhawati, Police Station Bhopalgarh, District Jodhpur Presently Vidhyadhar Nagar, Bjs Colony, Jodhpur Currently Sho Police Station Vill Barloot District Sirohi

----Respondent

For Petitioner(s) : Mr. Neeraj Kumar Gurjar
Mr. Lalit Kishor Sen, PP
For Respondent(s) : Mr. Bhirendra Singh with
Ms. Priyanka Borana

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

REPORTABLE

14/05/2026

1. Instant bail cancellation application is filed by State of Rajasthan under Section 439(2) of Cr.P.C. aggrieved from order dated 20.07.2022 in S.B. Criminal Misc. Bail Application No. 8986/2022 passed by a Co-ordinate Bench of this Court in FIR No. 143/2021 registered at police station Barloot, District Sirohi for offence under Section 8/15 of NDPS Act.

2. Learned Public Prosecutor has submitted that respondent Seema Jakhar was working as SHO when Ramesh Kumar and Dinesh Kumar while traveling in car were intercepted but in lieu of illegal gratification of ₹10,00,000/- offered and paid by Hemaram and Ashok, the matter was diluted against them and manipulated



to help them. He further submitted that without considering the gravity and seriousness of offence, a Co-ordinate Bench has allowed the bail only on the ground that the offence under Section 221 of IPC is made out and same is punishable with imprisonment for a term of 3 years. He is submitted that the respondent have committed offence under Section 8/15, 29, 27A and 59 of NDPS Act. He further submitted that the bail order be recalled.

3. Aforesaid contentions were opposed by learned counsel appearing on behalf of the respondent and he submitted that the respondent being a female is entitled for bail. He further submitted that the bail order was passed on 20.07.2022 and since then almost 4 years have lapsed so there is no ground of recall and cancel the bail granted to the respondent.

4. Heard learned counsel for both the sides and perused the material placed on record.

5. A Co-ordinate Bench while considering the bail application of respondent-applicant on 20.07.2022 in connection with FIR No. 143/2021 registered at police station Barloot, District Sirohi has passed following order:-

"Having regard to the submissions made by learned counsel for the parties and material available on record, without commenting on merits of the case and in the facts and circumstances of the case particularly the fact that offence alleged against the petitioner under Section 221 of IPC is punishable with imprisonment for a term of three years with and without fine, this Court is of the opinion that the bail application under Section 439 of Cr.P.C. filed by the petitioner deserves to be accepted."

6. The arguments considered by the Co-ordinate Bench are also reproduced as under:-





"Learned counsel for the petitioner submits that at the time of alleged incident, petitioner was posted as SHO Police Station Barloot, District Sirohi. The petitioner is a lady, who is behind the bars since 26.06.2022. She being a public servant, there is no apprehension of her absconding while facing trial. He further submits that false allegations have been levelled against the petitioner. The co-accused Hema Ram has already been enlarged on bail by a coordinate Bench of this Court vide order dated 15.02.2022 passed in S.B. Criminal Misc. Bail Application No. 17390/2021. He further submits that no money has been recovered from the possession of the petitioner. The investigation and trial of the case are likely to take sufficient long time to conclude. On the above grounds, he prays that the petitioner may be enlarged on bail."

7. The facts of the case were mentioned as under:-

"As per prosecution case, on 14.11.2021 at 7:25 PM, two persons viz. Ramesh Kumar and Dinesh Kumar while going in car, were intercepted by the police and after search, they were found in possession of total 141 kgs. Of poppy straw. Afterwards, in lieu of illegal gratification of Rs. 10 lacs/- given by co-accused Hemaram and Ashok, petitioner is stated to have manipulated the investigation and let free above persons and made false entries in the Rajnamcha that persons carrying poppy straw ran away."

8. Recently in case of **Abhimanyu Etc. Vs State of Kerala** reported as 2025 INSC 1136 wherein the appellants have challenged the order of cancellation of bail passed by the High Court. The observation about cancellation of bail and revocation of order granting bail were discussed. We are reproducing following paragraphs from said judgment as under:-

"17. Law is well settled that cancellation of bail is distinct from revocation of an order granting bail. Bail may be cancelled when the accused violates any of the conditions imposed. On the other hand, an order granting bail can be revoked if such an order is found to be perverse or illegal. In **P. v. State of Madhya Pradesh**, a three-judge Bench of this Court, after analyzing various previous decisions, discussed the distinction between the two. Relevant paragraphs of the decision are reproduced below:





21. Echoing the above principle, in *Ranjit Singh v. State of M.P.* [*Ranjit Singh v. State of M.P.*, (2013) 16 SCC 797 : (2014) 6 SCC (Cri) 405], it has been held thus:

19. There is also a distinction between the concept of setting aside an unjustified, illegal or perverse order and cancellation of an order of bail on the ground that the accused has misconducted himself or certain supervening circumstances warrant such cancellation. If the order granting bail is a perverse one or passed on irrelevant materials, it can be annulled by the superior court.

22. In *Abdul Basit v. Mohd. Abdul Kadir Chaudhary* [*Abdul Basit v. Mohd. Abdul Kadir Chaudhary*, (2014) 10 SCC 754 : (2015) 1 SCC (Cri) 257], this Court has opined that: (SCC p. 763, para 19)

19. Therefore, the concept of setting aside an unjustified, illegal or perverse order is different from the concept of cancellation of a bail on the ground of accused's misconduct or new adverse facts having surfaced after the grant of bail which require such cancellation and a perusal of the aforesaid decisions would present before us that an order granting bail can only be set aside on grounds of being illegal or contrary to law by the court superior to the court which granted the bail and not by the same court."

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.

25. Some of the circumstances where bail granted to the accused under Section 439(1) CrPC can be cancelled are enumerated below:

- (a) If he misuses his liberty by indulging in similar/other criminal activity;
- (b) If he interferes with the course of investigation;
- (c) if he attempts to tamper with the evidence;
- (d) if he attempts to influence/threaten the witnesses;
- (e) if he evades or attempts to evade court proceedings;
- (f) if he indulges in activities which would hamper smooth investigation;
- (g) if he is likely to flee from the country;





- (h) if he attempts to make himself scarce by going underground and/or becoming unavailable to the investigating agency;
- (i) if he attempts to place himself beyond the reach of his surety.
- (j) If any facts may emerge after the grant of bail which are considered uncondusive to a fair trial.

We may clarify that the aforesaid list is only illustrative in nature and not exhaustive.

24. Cancellation/revocation of bail, no doubt, seeks to uphold trial integrity. The dominant purpose thereof is to ensure a fair trial and protect societal interests by preventing persons accused of a heinous or grave crime and having tendencies to influences or intimidate witnesses or to tamper evidence from being released. Indeed, if such accused are likely to interfere with witness testimony, the courts could be justified in ordering the accused to be taken back into custody. However, at the same time, the golden rule of bail jurisprudence propounded by Hon'ble V.R. Krishna Iyer, J. of 'bail being the rule and jail an exception' cannot be ignored. Taking back the appellants in custody for no better reason than that the Sessions Court should not have been swayed by omission of the Public Prosecutor to raise any objection to grant of bail should not operate to the appellants' prejudice, more so when two years have passed in the interregnum."

9. It has been laid down that bail once granted can be cancelled only if any of the conditions or more than one are violated, if the accused misuses liberty, temper with evidence or influences witnesses. While allowing the appeal, Hon'ble Supreme Court has observed that the High Court have wide powers, such powers must be exercised with circumspection, balancing the rights of the accused with the interest of justice, in case of **Gurucharan Singh & Ors. Vs. State (Delhi Administration)** reported as AIR 1978 SC 179, Hon'ble Supreme Court has considered issue of cancellation of bail under the old Code of Criminal Procedure, 1898 and also under new Cr.P.C. of 1973. After considering the provisions under Section 439(2) of Cr.P.C. 1973 has held that the Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. The cancellation of bail is a





harsh step requiring strong and cogent evidence of wrong doing and the bail once granted cannot be cancelled in a mechanical manner or merely because the offence is serious.

10. Recently, Hon'ble Supreme Court has considered principal for cancellation of bail in case of ***State of Karnataka Vs. Sri Darshan etc. reported as 2025 INSC 979***. The issue of cancellation of bail were considered many times by Hon'ble Apex Court.

11. In case of ***Dataram Singh Vs. State of Uttar Pradesh*** reported as (2018) 3 SCC 22 Hon'ble Supreme Court has observed that there is difference between yardsticks for cancellation of bail and appeal against the order granting bail. Normally the ground for cancellation of bail are, interference or attempt to interfere with the due course of administration of justice or evasion or attempt to escape the due course of justice or abuse of the concessions granted to the accused in any manner. Again in case of ***Abdul Basik @ Raju & Ors. Vs. Mohammad Abdul Kadim Chaudhary*** reported as (2014) 10 SCC 754 Hon'ble Supreme Court has illustrated the grounds of cancellation of bail which are in fact post bail events.

12. Herein this case, the grounds raised by the State of Rajasthan are only that the Court has not considered gravity of the charge. The order itself indicate that the Court has granted bail considering the offence committed by the respondent-applicant and observed that it is within purview of section 221 of IPC. It is apparent that the grounds are sufficient, which infact required for cancellation of bail. The application for cancellation is





filed only on the ground that there was an error on part of the Court while considering the bail application of Smt. Seema Jakhar. This Court is not sitting as an Appellate Court to judge the bail order passed by another Co-ordinate Bench.

13. Respondent-applicant is a female and an argument is advanced on behalf of respondent-applicant that she is a female. Section 437(1) of Cr.P.C. provides that the Court may direct a person refer to in clause (i) or clause (ii) be released on bail if such person is under the age of 16 years, or is a woman or is sick or infirm.

14. In case of ***Kalvakuntla Kavitha vs. Directorate of Enforcement reported as 2024 INSC 632***, Hon'ble Supreme Court has considered grant of bail on the ground that accused is a female and she is entitled to bail under Section 45(1) of the PMLA Act. While referring the legal position in particular after considering judgment in case of ***Saumya Chaurasia Vs. Directorate of Enforcement reported as 2023 INSC 1073***, has observed that the person of tender age and women who are likely to be more vulnerable may sometimes be misused by unscrupulous elements and made scapegoats for committing such crimes.

15. Having considered the totality of facts and circumstances, I am of considered view that the state should have taken a proper legal advise before filing instant application under Section 439(2) of Cr.P.C. for recalling/cancellation of bail granted by a Co-ordinate Bench. The application filed by the State is not only misconceived but it lacks the merit, therefore, same is liable to be dismissed.





14. In view of discussions made here in above, the application of cancellation of bail under Section 439(2) of Cr.P.C. is hereby dismissed.

15. Hence, the bail cancellation application is liable to be dismissed.

16. Accordingly, S.B. Criminal Bail Cancellation Application No. 75/2024 stands dismissed.

(ASHOK KUMAR JAIN),J

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