

**Order below Ex.26-**

This is an application for cancellation of bail granted in C.R. No. 13/2019.

2] The applicant has contended that, on 13/02/2020 MCOCA Court Pune has granted the bail. It is directed that accused shall not enter in to taluka. He shall not threaten the complainant and he shall attend the court regularly. Applicant further contended that, there is possibility that accused will pressurize the witness and there is possibility to cause endanger to the life of witness. The applicant mentioned in all 9 grounds for cancellation of bail one of them is that accused has committed the breach of condition of the bail.

3] Respondent/accused appeared and filed Say Exh. 33 and denied the contents of the application. He has contended that as per the order passed by the court, he has abide all the conditions imposed on him, thereby he sought rejection of the application.

4] Heard Ld. A.P.P. Shri. R.S. Patil for the State and Ld. Adv. Shri. J.B. Khanjade for the respondent.

5] There is a basic difference in between the grounds for resisting the application for bail and grounds for cancellation of the bail. Once the bail is granted, it cannot be cancelled on technical ground or on omnibus allegations. On perusal of the grounds mentioned in the application, except the ground mentioned at para 9(e) all other grounds

are the ground which are available for them while resisting the original bail petition. On the point of breach of condition that accused has entered in Islampur Taluka. Ld APP relied on the case filed by one Nirajan Ashok Patil in CR No. 114/2021.

6] Perused the said NC of CR No. 114/2021, it was alleged by Niranjana Patil that on 01/02/2021 at about 9.00 pm accused Anmol Madane abused and assaulted him near the Auto Showroom Kameeri road. However, the complaint is appeared to be filed on 02/02/2021 at about 7.19 pm.

7] Prosecution is also relied on one CR No. 659/2020 registered against accused Anmol Madane alleging that on 15/09/2020 accused has committed offence Us. 394, 452, 427, 323, 504, 506 rw 34 of IPC. It was alleged that, the said complaint was filed by Mangesh Sukhadev Khaire. Accused has filed the certified copy of the affidavit of Mangesh Khaire filed in CR no. 659/2020. It was alleged by Mangesh Khaire that he was lodged complaint against unknown person. He has not mentioned the name of Anmol Madane. It is submitted by Mangesh Khaire that, accused Anmol Madane never assaulted him and snatched the amount from him.

8] Ld. Advocate for Accused has filed following case laws -

- 1) Dolat Ram Vs. State of Haryana, 1995 SCC (1) 349, JT 1995 (1) 127
- 2) Ms. X. Vs. State of Karnataka in Criminal Petition No. 4598/2020 of Karnataka High Court.
- 3) Central Goods and Service Tax Delhi East Vs. Sh. Naval Kumar & Ors. in CrI. M.C. 231/2021
- 4) Khajim @ Khajimulla Khan and The State of Karnataka in Criminal Revision Petition No. 1364/2019

9. In the case of Daulat Ram cited supra, it has observed in para 4 that,

*"4. Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of Justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a nonbailable case in the first instance and the cancellation of bail already granted."*

In the case of Mr. X. cited supra it has observed in para 16 that,

*"It is observed in the said judgment that even the material facts indicate that the accused has been granted anticipatory bail and thereafter he has appeared before the Court and he is regularly attending the Court and already many more witnesses have been examined and when there is no hurdle or misuse of the liberty granted by the accused in the said case, wherein the bail has been granted, merely because some other cases have been registered and in that light if the bail is cancelled, then automatically it affects the personal liberty of a particular person under [Article 21](#) of the Constitution of India. While dealing with personal liberty of a person, the Court has to keep in mind the overall facts and then consider the petition."*

In the case of Central Goods and Service Tax cited supra it has observed in para 21 that

*"It is settled that once bail granted should not be cancelled in a mechanical manner without there being any supervening circumstances which are not conducive to fair trial. It cannot be cancelled on a request from the side of the complainant/ investigating agency unless and until it is established that the same is being misused and it is no longer conducive in the interest of justice to allow the accused any further to remain on bail. No doubt, the bail can be cancelled only in those discerning few cases where it is established that a person to whom the concession of bail has been granted is misusing the same."*

10. In view of above case laws, I peruse the documents before me. As discussed supra except ground no. 9(e) all the other grounds are available for the prosecution while resisting the bail petition. Now, same ground can not be invoked on merit for cancellation of bail. On the point of breach of condition by entering in Isalmpur prosecution rely on two incident cited supra. However, in those incidents the informant himself filed his affidavit stating that, accused Madane has not abused and assaulted him and he does not snatch the amount from him. Under such circumstance, merely filling of the case at the instance of police is not the sufficient ground to hold that, accused has committed the breach of condition. In the result, I pass the following order,

**ORDER**

Application is hereby rejected.

Date : 15-06-2022.

(Aniruddha Subhash Gandhi)  
Addl. Sessions Judge, Islampur.

**CERTIFICATE**

I affirm that, the contents of this P.D.F. file are same, word to word, as per original order.

Name of the Stenographer	:	Shri. Pradip T. Patil (Grade-I steno)
Court Name	:	Addl. Sessions Judge, Islampur.
Date	:	15.06.2022
Signed by P.O. on	:	15.06.2022
Uploaded on	:	15.06.2022