

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Bail Cancellation Application No. 154/2024
URN: CRLBC / 216U / 2024

Om Prakash Barwadiya S/o Jagannath Barwadiya, Aged About 72
Years, R/o 99, Ballabhbari, Police Station Gumanpura, Kota
(Rajasthan).

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Pyare Kishan S/o Shri Bal Kishan Sharma, Aged About 66
Years, R/o 25, Vijay Nagar Colony, 5 Batti Choraha,
Phulera, District Jaipur. (Rajasthan).

-----Respondents

For Petitioner(s) : Mr. Harsh Sharma

For Respondent(s) : Mr. Vijay Singh Yadav, PP
Mr. Vivek Yadav for Dr. Mahesh
Sharma

HON'BLE MR. JUSTICE PRAMIL KUMAR MATHUR

Order

01/07/2026

Reportable

1. The instant bail cancellation application has been filed under
Section 483(3) of the BNSS in connection with FIR No. 0309/2023
registered at Police `Station Nayapura, District Kota for the
offence(s) under Sections 420, 406, 467, 468, 471, 120-B of IPC,
1860.
2. Heard the learned counsel for the petitioner as well as
learned Public Prosecutor and counsel for the respondent No.2.
Perused the material available on record.
3. Learned counsel for the petitioner has submitted that the
present bail cancellation application has been filed on behalf of the

complainant against the impugned order dated 15.06.2024 whereby the learned Sessions Court has upheld the order dated 29.01.2024 passed by the learned Trial Court, by which the concession of bail has been granted to the accused-respondent Pyare Kishan. Learned counsel further submits that the order granting bail to the accused-respondent suffers from serious infirmities inasmuch as on bare perusal of the order dated 29.01.2024 it reveals that the learned trial court without even considering the material available on record and without recording any reasons or justifications for its *prima facie* satisfaction making a case fit for the grant of bail, has passed the order in a mechanical and cursory manner. He further contends that even the learned Sessions Court in order dated 15.06.2024 has recorded that grounds stated in application appear to be reasonable but still maintained the impugned order dated 29.01.2024. He also submits that a serious crime has been committed by the respondent-accused as he has stolen notary seals and stamps and also forged sale documents about the land which belongs to the complainant. Hence, granting bail under such circumstances would only strengthen the criminal intentions of such type of people. Thus, in the present case, the bail granted to the accused-respondent deserves to be cancelled.

4. Learned counsel for the petitioner placed reliance upon the following judgments:

- 1. Rohit Bishnoi v State of Rajasthan and Ors. reported in 2023 INSC 642.**
- 2. Manoj Kumar Khokhar v State of Rajasthan reported in 2022 (3) SCC 501.**

3. Ms. Y v State of Rajasthan, SLP (Criminal) No. 649 of 2022 decided on 19.04.2022.

5. Learned Public Prosecutor has supported the contentions raised by the learned counsel for the petitioner and submits that the impugned orders deserves to be set aside and the bail granted to the accused-respondent No.2 is liable to be cancelled. He further contended that the accused respondent No.2 has been specifically named in the FIR and specific role has been assigned to the accused respondent No.2.

6. Learned counsel for the accused-respondent No.2 has vehemently opposed the instant application and submits that the learned Trial Court has rightly allowed the bail application of the accused-respondent and the same was also rightly upheld by the learned Sessions Court. The impugned orders dated 29.01.2024 and 15.06.2024 warrant no interference by this Court. He further submits that since no recovery remains to be made from the accused-respondent and the custodial interrogation was not required. Hence, the learned Sessions Court has passed the justified order in rejecting the application of the petitioner. He also contends that the scope of cancellation of bail is very narrow and that the cancellation can only be allowed when the accused has misused the bail conditions or where there is an illegality or perversity in the order granting bail, which is not the case in hand. In support of his submissions, he places reliance upon the following judgments:

1. Kailash Kumar v State of Himachal Pradesh and Ors., Cr. Appeal No. 861/2025 decided on 20.02.2025.

2. Smt. Usha Rani v State of U.P. Anr., Criminal Misc Bail Cancellation Application No. 36989 of 2015, decided by Allahabad High Court, on 11.12.2019 (2019:AHC:210891).

7. At the outset, this Court deems it appropriate to examine the legality and sustainability of the order dated 15.06.2024 passed by the learned Sessions Court whereby the application seeking cancellation of bail was rejected. A perusal of the said order reveals that the learned Sessions Court considered the submissions advanced on behalf of both parties and after appreciation of the material available on record, the learned Sessions Court affirmed the order granting bail primarily on the grounds that the accused is an elderly person aged about 65 years, no recovery remains to be effected from him, and no further custodial interrogation is required.

8. Before advertng to the correctness of the aforesaid order, it is necessary to note that the considerations governing the grant of bail and those governing the cancellation of bail operate in distinct legal spheres. Cancellation of bail cannot be sought as a matter of routine merely because another view is possible on the merits of the case. The law relating to cancellation of bail has consistently been explained by the Hon'ble Supreme Court in a catena of decisions, including **Myakala Dharmarajam & Ors. v. State of Telangana & Anr., reported in AIR 2020 SC 317.**

9. It is well settled that cancellation of bail may be justified as where the order granting bail suffers from patent illegality, perversity, non-application of mind, or where relevant material has

been ignored. Similarly, supervening circumstances, such as misuse of liberty granted by the Court, intimidation or influencing of witnesses, tampering with evidence, absconding, or obstruction in fair investigation or trial may also constitute valid grounds for cancellation of bail.

In the present case, the order passed by the learned Sessions Court rejecting the application for cancellation of bail does not appear to suffer from any perversity or non-consideration of relevant material. The learned Sessions Court has assigned cogent reasons while declining the interference with the order granting bail and has consciously recorded its satisfaction regarding the absence of any requirement of custodial interrogation of the accused.

10. Consequently, insofar as the challenge to the order dated 15.06.2024 passed by the learned Sessions Court is concerned, this Court finds no ground warranting interference in exercise of its jurisdiction under Section 483(3) of the BNSS.

11. Nevertheless, while examining the record, this Court has noticed certain serious infirmities in the original order dated 29.01.2024 passed by the learned Trial Court granting bail to the accused-respondent.

For ready reference, the operative portion of the order dated 29.01.2019 is reproduced hereinbelow:

“29.01.2024 **APP** उपस्थित। अभियुक्त प्यारेकिशन का **J/C** वारण्ट पेश किया। अब इंतजार नतीजे में इस दिनांक 09.02.2024 को पेश हो। अधिवक्ता अभि. द्वारा जमानत प्रार्थना पत्र पेश किया फरियादी ओमप्रकाश की ओर से अधिवक्ता भगवान सिंह ने वकालतनामा पेश किया। बहस

जमानत सुनी। केस डायरी का अवलोकन किया। आदेश किया जाता है कि, यदि अभियुक्त प्यारेकिशन की ओर से 5000/- रुपये का मुचलका व 25000/- 25000/- की दो जमानती पेश कर तस्दीक करावे, तो जमानत पर रिहा है। आदेश की पालना में जमानत पेश नहीं किया। पत्रावली दिनांक 09.02.2024 को पेश हो।”

A bare perusal of the aforesaid order demonstrates that the learned Trial Court enlarged the accused on bail without assigning any reasons whatsoever. Except for a formal reference to hearing arguments and perusing the case diary, the order does not disclose any application of judicial mind to the relevant considerations governing the grant of bail.

The order neither reflects the nature and gravity of the accusation nor the specific role attributed to the accused nor the material collected during the course of investigation nor the necessity of custodial interrogation, nor any prima facie satisfaction justifying exercise of judicial discretion in favour of the accused, being cryptic and mechanical in nature, falls short of the settled principles governing the exercise of judicial discretion in matters relating to bail.

12. It is trite law that although a detailed evaluation of the evidence is not required at the stage of consideration of bail, the Court is nevertheless under an obligation to record at least brief but cogent reasons indicating due application of mind. Recording of reasons is an indispensable component of judicial decision making and ensures transparency, fairness and accountability in the exercise of judicial discretion.

13. Reference in this regard may profitably be made to the decisions of the Hon'ble Supreme Court in **Brijmani Devi v. Pappu Kumar, reported in (2022) 4 SCC 497, and Mahipal v. Rajesh Kumar & Ors., reported in AIR 2020 SC 670**, wherein it has been consistently held that an order granting bail cannot be sustained if it is bereft of reasons and does not disclose due application of mind to the relevant factors governing grant of bail.

Mere recording expressions such as "heard learned counsel", "perused the record", or "considered the facts and circumstances of the case" does not satisfy the requirement of a reasoned judicial order. Such omnibus observations, without any discussion of the relevant factors or disclosure of the basis for the exercise of judicial discretion, cannot be treated as compliance with the settled principles governing the grant of bail.

14. Thus, from the statutory scheme and the judicial precedents referred to hereinabove, it clearly emerges that while the Court considering an application for bail is not expected to conduct a mini trial or meticulous appreciation of the evidence, the order granting bail must nevertheless reflect due consideration of the relevant factors, including:

- (i) the nature and gravity of the accusation;
- (ii) the severity of the punishment;
- (iii) prima facie involvement of the accused;
- (iv) the possibility of tampering with the evidence or influencing/intimidating the witnesses;
- (v) the likelihood of absconding; and
- (vi) the overall requirement of ensuring a fair and proper investigation.

The judicial discretion vested under the provisions governing grant of bail is required to be exercised in a judicious manner on well-settled principles of law, and not mechanically or as a matter of course.

15. In view of the aforesaid discussion, this Court does not find any ground to interfere with the order dated 15.06.2024 passed by the learned Sessions Court rejecting the application for cancellation of bail. However, this Court considers it appropriate to observe that the original order dated 29.01.2024 granting bail was not in consonance with the settled principles governing the grant of bail and lacked the essential requirement of recording reasons.

16. Consequently, the present application seeking cancellation of bail is hereby dismissed.

The Registry is directed to place a copy of this order before Hon'ble the Chief Justice for consideration, if deemed appropriate on the administrative side.

(PRAMIL KUMAR MATHUR),J