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MCRC-48305-2024

IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE RAJENDRA KUMAR VANI

ON THE 30<sup>th</sup> OF APRIL, 2025MISC. CRIMINAL CASE No. 48305 of 2024*KAPURA**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

*Shri Hemant Singh Rana - learned counsel for the applicant.*

*Shri Dinesh Savita - learned Public Prosecutor for the respondent/State.*

*Shri Mahendra Singh Yadav - learned counsel for the respondent No.2.*

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ORDER

This petition under Section 483 (3) of BNSS has been filed for cancellation of bail granted to respondent No. 2 vide order dated 21.10.2024 by learned Second Additional Sessions Judge, Morena, District Morena in Bail Application No. 614/2024 in connection with Crime No.144/2024 registered at Police Station - Mata Basaiya, District Morena.

2. As per prosecution story, marriage of deceased was solemnized with co-accused Ramu Yadav (husband) on 18.4.2024. After the marriage, deceased was being harassed by respondent No.2 Urmila (mother-in-law) and co-accused persons namely Ramu Yadav (husband), Raghuraj (brother-in-law) and Rinku (brother-in-law) for demand of motorcycle and money in dowry and they also used to beat the deceased due to which she committed suicide. Upon this, FIR bearing Crime No. 144/2024 was registered against respondent No. 2 / accused for offence under Sections 80, 85, 3(5) of BNS and 3/4 of the Dowry Prohibition Act against present applicant Urmila (mother-in-law) and co-accused Ramu yadav



(husband of the deceased). During the course of investigation, respondent No. 2 was arrested. Respondent No. 2 filed bail application before the court below which was allowed vide order impugned against which the present application for cancellation has been filed.

3. Learned counsel for the petitioner argued that respondent No. 2 has been granted benefit of bail without considering the gravity of offence and material available on record. It is further submitted that respondent No.2 along with co-accused persons used to abuse the deceased, beat her every day, make demands for a motorcycle and money in dowry and harass her physically and mentally. It is further submitted that last rites of the deceased were also performed by the family members of the petitioner because all the in-laws had already fled away after committing murder of the deceased. Learned counsel placed reliance on the judgment of Coordinate Bench of this Court in the case of **Ramadhar Baghel vs. State of M.P.** decided on 14.03.2022 in M.Cr.C.No.58792/2021 and contended that if the complainant challenges the order of grant of bail before the superior Court on the ground that the bail has been erroneously granted without considering the allegations levelled against the accused, then the superior Court can always consider the severity of the allegations. The Court is required to examine whether there is a prima facie or reasonable ground to believe that the accused had committed the offence and on a balance of the considerations involved, the continued custody of the accused subserves the purpose of the criminal justice system. Where bail has been granted by a lower court, an appellate court must be slow to interfere and ought to be guided by the principles set out for the exercise of the power to set aside bail. Following the judgment passed by the Hon'ble Apex Court in the case of **Kumer Singh vs. State of**



**Rajasthan and Anr.** by order dated 20.07.2021 passed in Criminal Appeal No.571/2021, the Coordinate Bench of this Court in the case of **Ramadhar Baghel (supra)** has rejected the bail granted in favour of the respondent by the Sessions Court as no reason has been assigned by the Court for grant of bail.

4. It is also submitted that where a court considering an application for bail fails to consider relevant factors, an appellate court may justifiably set aside the order granting bail. Therefore, it is prayed to recall/cancel the bail granted to respondent No.2 granted by the court below.

5. On the other hand, learned counsel for respondent No. 2 vehemently opposed the petition and argued that learned court below after considering all aspects of the case granted bail to respondent No. 2. He has relied upon the judgment of the Apex Court passed in the case of **Himanshu Sharma vs. State of Madhya Pradesh (2024) 4 SCC 222**.

6. Heard learned counsel for the rival parties and perused the available record.

7. The Hon'ble Supreme Court in the case of **Dolat Ram Vs. State of Haryana [(1995) 1 SCC 349 : 1995 SCC (Cri) 237]** has held as infra:

*“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 non-bailable case in the first instance and the cancellation of bail*



*already granted”*

8. In the case of *Bhuri Bai vs. The State of Madhya Pradesh: 2022 LiveLaw (SC) 956*, the Apex Court has held as under:

*“19. It remains trite that normally, very cogent and overwhelming circumstances or grounds are required to cancel the bail already granted. Ordinarily, unless a strong case based on any supervening event is made out, an order granting bail is not to be lightly interfered with under Section 439 (2) CrPC.”*

*20. It had not been the case of the prosecution that the appellant had misused the liberty or had comported herself in any manner in violation of the conditions imposed on her. We are impelled to observe that power of cancellation of bail should be exercised with extreme care and circumspection; and such cancellation cannot be ordered merely for any perceived indiscipline on the part of the accused before granting bail. In other words, the powers of cancellation of bail cannot be approached as if of disciplinary proceedings against the accused and in fact, in a case where bail has already been granted, its upsetting under Section 439 (2) CrPC is envisaged only in such cases where the liberty of the accused is going to be counteracting the requirements of a proper trial of the criminal case. In the matter of the present nature, in our view, over-expansion of the issue was not required only for one reason that a particular factor was not stated by the Trial Court in its order granting bail.”*

9. The Hon’ble Supreme Court in the case of *Himanshu Sharma v. State of Madhya Pradesh, (2024) 4 SCC 222* has held as under :

*“11. Law is well settled by a catena of judgments rendered by this Court that the considerations for grant of bail and cancellation thereof are entirely different. Bail granted to an accused can only be cancelled if the Court is satisfied that after being released on bail*

- (a) the accused has misused the liberty granted to him;*
- (b) flouted the conditions of bail order;*
- (c) that the bail was granted in ignorance of statutory provisions restricting the powers of the Court to grant bail;*



(d) or that the bail was procured by misrepresentation or fraud.

In the present case, none of these situations existed."

10. The perusal of the impugned order of the Second Additional Sessions Judge, Morena dated 21.10.2024 revealed that trial Court has considered merits of the case. It is stated in the order that applicant/respondent No.2 herein is 55 years old lady and his ill-health is also reflected from the remand papers. The main allegations of crime have been levelled against co-accused Ramu. It is also stated in the impugned order that applicant/respondent No.2 herein is not needed in the investigation further and there is no possibility of her absconsion and disposal of the case will take time. The consideration of the trial Court on the bail application filed on behalf of respondent No.2 does not seem to be unreasonable or perverse.

11. There is no doubt about the principles for cancelling the bail as discussed by the Coordinate Bench of this Court in the case of **Ramadhar Baghel (supra)**, but what is to be seen in this application for cancellation of bail is as to whether the trial Court while passing the impugned order has not considered the application for bail keeping in view the attending facts and circumstances of the case as well as the role particularly assigned to respondent No.2 and overlooked the material available on record.

12. The present applicant has preferred this petition for cancellation of bail on the ground that learned trial Court granted bail in favour of respondent No.2/Urmila ignoring the facts on record that cruelty was meted out by respondent No.2-Urmila along with husband of the deceased. In this case, however, the deceased has committed suicide and the cause of death is shown in the postmortem report as asphyxia as a result of hanging. The allegations are levelled in the story of prosecution mainly against co-accused/husband of the deceased.



There is omnibus allegation of demand of cash and motorcycle in dowry. It is also not revealed that how much cash has been demanded. There is no other injury found on the body of the deceased at the time of postmortem. Therefore, keeping in mind the settled law in respect of cancellation of bail, it is not found that any cogent or overwhelming circumstances are there to cancel the bail granted in favour of respondent No.2.

13. It is also not shown by the present applicant that after getting the bail respondent No.2 has committed breach of any condition levelled against her or she has misused the liberty granted under the bail. The impugned order does not show that Presiding Officer of the trial Court has, overlooking the important aspects and facts of the case, has decided the bail application of respondent No.2.

14. Consequently, the present application seeking cancellation of bail granted to respondent No.2 vide impugned order sans merits, and therefore, is hereby dismissed.

**(RAJENDRA KUMAR VANI)**  
**JUDGE**

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