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MCRC-4301-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJAY DWIVEDI

ON THE 18th OF FEBRUARY, 2025MISC. CRIMINAL CASE No. 4301 of 2025*MAHESH SAKET**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Vikas Mahawar - Advocate for the applicant.

Shri B.K. Upadhyay - Government Advocate for the respondent No.1-State.

Shri Anil Khare - Senior Advocate with Shri Priyank Agrawal - Advocate for the respondent No.2.

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ORDER

This is an application under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS)/482 of the Code of Criminal Procedure for exercising extra-ordinary jurisdiction of this Hon'ble Court and sought quashing of the order dated 17.01.2025 whereby the Court below has rejected the bail granted to the applicant in Crime No.206/2023 vide order dated 03.10.2023. The Court has exercised the power provided under Section 439(2) of Cr.P.C.

Learned counsel for the applicant submits that an offence was registered against the present applicant vide Crime No.206/2023 under Sections 147, 148, 149, 294, 323 and 324 of the IPC. Later on an additional offence under Section 326 of IPC was also added and applicant was arrested on 29.09.2023 and was sent to jail.



An application for grant of bail was moved under Section 439 of Cr.P.C. and vide order dated 03.10.2023, the bail application was allowed and bail was granted to the present applicant, though, with certain conditions contained in the order itself. While considering the bail application, the Court has also taken note of the six offences registered against the present applicant as has been informed to the Court. It is stated in the application that the present applicant was an elected Sarpanch and was eyesore for several persons and because of political rivalry, he was targeted and was also victimized by lodging FIR by respondent No.2 for offence under Sections 147, 148, 149, 427, 294 and 506 of IPC vide Crime No.178/2024 at Police Station Garh, District Rewa on 02.05.2024. As per the applicant, this FIR was lodged with a sole intention for getting the bail of the present applicant cancelled by the Court in Crime No.206/2023. As per the applicant, in Crime No.206/2023, respondent No.2 was not the complainant and therefore, he cannot move an application for cancellation of bail granted in Crime No.206/2023.

It is also submitted by learned counsel for the applicant that due to personal grudge with him, the SHO namely Mr. Vikas Kapees of Police Station Garh, lodged another FIR in Crime No.239/2024 for the offence under Section 307 of IPC as a complainant. As per the applicant, the prosecution story in Crime No.239/2024 is completely false and concocted because no such incident had occurred and applicant being a member of scheduled caste community became an eyesore for some of the political persons and therefore, it was planned and a false case was got registered



against the present applicant. He has tried to establish before this Court highlighting the facts in registration of Crime No.239/2024 that the said case is false and therefore, he submits that the same cannot be made basis for cancelling the bail granted to the present applicant.

Learned counsel for the applicant also submits that it can also be ascertained from the fact that seven cases were registered against the present applicant and out of those seven, investigation is completed only in Crime No.239/2024 and in remaining six cases, investigation is still incomplete and chargesheet is yet to be filed. However, in Crime No.239/2024, final report has been filed very hastily. He has also pointed out that a letter was issued by the said SHO asking the competent authority to remove the Sarpanch from the post whereas the said SHO had no concern and had nothing to do with the said aspect. This indicates personal interest of the SHO in the matter and thereby registered of a false FIR against the applicant. Thus, according to him, the Court has not considered the existing circumstances and rejected the bail granted to the present applicant in a very mechanical manner and therefore, the order impugned, according to him can be set aside. He has relied upon an orders passed by the High Court in *M.Cr.C. No.1281 of 2025 (Mahesh Saket vs. The State of Madhya Pradesh)* and *M.Cr.C. No.28999 of 2024 (State of Madhya Pradesh vs. Anil Saket)*.

Shri Khare, learned counsel for the objector has opposed the submissions made by learned counsel for the applicant and submitted that the bail was granted to the applicant on 03.10.2023 in Crime No.206/2023 with the following conditions :-



- (i) That, the applicant will co-operate in the investigation and trial.
- (ii) That, the applicant will not influence any of the witnesses.
- (iii) That, the applicant will not commit any offence.

However, the applicant, after release from jail, committed two offences and those were registered as Crime No.178/2024 and Crime No.239/2024. He submits that the present applicant has also tried to influence the witnesses of Crime No.206/2023 and as such violated the terms and conditions of bail granted to him. He has relied upon orders passed by the High Court in *M.Cr.C. No.14423/2023* reported in *2023 SCC OnLine MP 2556 (Sonu Kushwaha vs. State of M.P. and others)* and in *M.Cr.C. No.3720/2016* reported in *2016 SCC OnLine MP 2808 (Sanjay Singh & another vs. State of M.P.)*.

Learned counsel for the State has also adopted the stand of the objector and supported the submissions made by learned counsel for the objector.

Considered the submission made by learned counsel for the parties and perused the record.

Undisputably, after his release from jail pursuant to order dated 03.10.2023, one offence got registered against the applicant vide Crime No.178/2024 on the basis of FIR lodged on 02.05.2025 under Sections 147, 148, 149, 427, 294 and 506 of IPC and second offence got registered against him vide Crime No.239/2024 under Sections 341, 294, 353, 332, 186, 307, 224, 34 of the IPC and Sections 25 and 27 of the Arms Act. Although, learned counsel for the applicant has tried to convince this Court about the



falsity of the complaints made against him and offences registered vide Crime No.178/2024 and 239/2024 but here in this case, the Court is not required to go into the sanctity and correctness of the allegations made in the alleged crime but the Court is required to see whether present applicant has violated any of the terms and conditions of bail order earlier granted to him or not.

The Court can, *prima facie*, see the nature of offence alleged to have been committed by the applicant after release from jail and I am of the opinion that those offences are not so simple that can be ignored by the Court while exercising the power provided under Section 439(2) of Cr.P.C for cancellation of bail. I can understand that the power of cancellation of bail has to be exercised very carefully and it cannot be cancelled in a mechanical manner unless Court comes to the conclusion that applicant has not only violated the condition of bail order but also failed to keep himself away from criminal activities. The Supreme Court in a case of **P vs. State of Madhya Pradesh and another (2022) 15 SCC 211** has considered the power of Court provided under Section 439(2) of Cr.P.C. and also laid down the circumstances in which the bail can be cancelled and also observed that power of cancellation of bail should not be used in a very casual manner and bail cannot be cancelled in a mechanical manner. The Supreme Court in the said case has observed as under :-

"19. It is true that bail once granted, ought not to be cancelled. In *Dolat Ram v. State of Haryana* [*Dolat Ram v. State of Haryana*, (1995) 1 SCC 349 : 1995 SCC (Cri) 237], this Court has held that very cogent and overwhelming circumstances are necessary for cancellation of bail and bail once granted, should not be



cancelled in a mechanical manner. It is equally true that an unjustified or perverse order of bail is vulnerable to interference by the superior court. So is an order where irrelevant material has been taken into consideration (Refer : Narendra K. Amin [Narendra K. Amin v. State of Gujarat, (2008) 13 SCC 584 : (2009) 3 SCC (Cri) 813]).

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."

Thus, in my opinion, in the present case I do not find any illegality and infirmity in the order passed by the Court below cancelling the bail granted to the applicant in Crime No.206/2023 and it is also not proper on the part of this Court to observe that the court below has not exercised the discretion and power provided under Section 439(2) of Cr.P.C. judiciously, therefore, no interference is called for in the order dated 17.01.2025 passed by the Court below rejecting the bail application of the applicant.

The application is, accordingly, **dismissed**.

(SANJAY DWIVEDI)
JUDGE

