

2014 (0) AIJEL-HC 231643

GUJARAT HIGH COURT

Hon'ble Judges:S.G.Shah, J.

Allahrakha Mohammedbhai Multani Versus Mohammed Irshad Alias Mulla Daulatbhai Ghanchi

Criminal Miscellaneous Application No. 4497 of 2014 ;  
Criminal Miscellaneous Application No. 4498 of 2014 ;  
Criminal Miscellaneous Application No. 4500 of 2014 ; \*J.Date :- JULY 23, 2014

- BOMBAY POLICE ACT, 1951 Section - 135(1)
- CODE OF CRIMINAL PROCEDURE, 1973 Section - 437 , 439
- INDIAN PENAL CODE, 1860 Section - 302 , 201 , 404 , 120B
- BOMBAY POLICE ACT, 1951 Section - 135(1)

**Code of Criminal Procedure, 1973 - S. 437, 439 - Indian Penal Code, 1860 - S. 302, 201, 404 and 120B - Bombay Police Act, 1951 - S. 135(1) - cancellation of bail - money transaction - enmity - murder - dead body of the deceased found in public toilet - circumstantial evidence - bail granted to the accused by Trial Court - challenged - applicant contended that after releasing on bail, accused threatened to the complainant for the settlement - parameters and factors while cancellation of bail - nature and gravity of offence - held, while exercising powers for granting bail to the accused, discretion should be exercised in a judicious manner by Court - while granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/ State and other similar considerations - bail cancelled on the ground of misusing the order of bail and order of bail itself was improper - applications allowed.**

**Imp.Para:** [ 9 ][ 10 ][ 11 ][ 12 ]

**Cases Referred To :**

1. A.V. Papayya Sastry V/s. Govt. Of A.P. & Ors., 2007 4 SCC 221
2. Avtar Singh V/s. State Of Punjab, 2010 15 SCC 529
3. Deepak Shubhashchandra Mehta V/s. Cbi & Anr., 2012 4 SCC 134

4. Dolat Ram & Ors. V/s. State Of Haryana, 1995 1 SCC 349
5. Govind Narain Johari V/s. State & Anr., 2013 5 AD(Del)179
6. Gulabrao Baburao Deokar V/s. State Of Maharashtra & Ors., 2013 0 STPL(Web) 1033
7. Gurcharan Singh & Ors. V/s. State (Delhi Administration), AIR 1978 SC 179
8. Guria, Swayam Sevi Sansthan V/s. State Of U.P. And Ors., AIR 2010 SC 440
9. H.B. Chaturvedi V/s. Cbi, 2010 171 DLT 223
10. Hazari Lal Das V/s. State Of West Bengal & Anr., 2009 10 SCC 652
11. Jai Kumar V/s. Balhari & Anr., 2011 2 SLT 302
12. Kalvan Chandra Sarkar V/s. Rajesh Ranjan Alias Pappu Yadav And Anr., 2004 3 JT 442
13. Kalyan Chandra Sarkar V/s. Rajesh Ranjan @ Pappu Yadav & anr., 2004 7 SCC 528
14. Kishore Samrite V/s. State Of U.P. & ors., 2013 2 SCC 398
15. Kunwar Singh Meena V/s. State Of Rajasthan And Anr., AIR 2013 SC 296
16. Laloo Prasad Alias Laloo Prasad Yadav V/s. State Of Jharkhand, 2002 9 SCC 372
17. Lokesh Singh V/s. State Of U.P., AIR 2010 SC 94
18. Nityanand Rai V/s. State Of Bihar & Anr., 2005 5 SCC 178
19. Pooja Bhatia V/s. Vishnu Narain Shivpuri & Ors., 2014 0 STPL(Web) 183
20. Prahlad Singh Bhati V/s. Nct Of Delhi & Anr., AIR 2001 SC 1444
21. Puran Etc., V/s. Rambilas And Anr. Etc., 2001 6 SCC 338 : 2001 (3) GLH 119 : 2001 (3) GCD 1936 : 2001 CrLJ 2566 : 2001 (3) Scale 695
22. Rahmita V/s. State & Ors., 2012 1 AD(Del)376
23. Ram Govind Upadhyay V/s. Sudarshan Singh And Ors., 2002 3 SCC 598
24. Ramcharan V/s. State Of M.P., 2004 13 SCC 617
25. Ranjit Singh V/s. State Of M.P. And Ors., Criminal Appeal No.1545, 2013 on 27.9.2013
26. Sanjay Chandra V/s. Central Bureau Of Investigation, 2012 1 SCC 40 : 2012 (1) GLH 93 : 2012 CrLJ 702 : 2011 (13) Scale 107 : 2011 (108) AIC 41
27. State Of Maharashtra V/s. Captain Buddhikota Subha Rao, AIR 1989 SC 2292
28. State Through Cbi V/s. Amarmani Tripathi, 2005 7 SLT 160
29. Subodh Kumar Yadav V/s. State Of Bihar And Anr., AIR 2010 SC 802
30. Suresh Kalmadi V/s. Cbi, 2012 187 DLT 575

**Equivalent Citation(s):**

2014 JX(Guj) 658 : 2014 AIJEL\_HC 231643

**JUDGMENT :-**

1 All these applications for cancellation of bail are arising out of the same FIR registered with Bapunagar police station C.R.No.235 of 2013 u/ss.302, 201, 404 and 120B of the Indian Penal Code and Section 135(1) of the Gujarat Police Act. In FIR, though name of none of such petitioner is disclosed as accused, and though in the FIR it is disclosed that accused are Rakeshbhai Ratanlal Verma and his friends, after investigation, police has filed chargesheet upon four persons, including present petitioners, but excluding Rakeshbhai Ratanlal Verma.

**2** After investigation, now chargesheet is also filed wherein present respondents are accused Nos.1, 2, 3 and 4.

**3** The sum and substance of the FIR is to the effect that there was enmity between Rakeshbhai Ratanlal Verma and brother of the complainant due to some money transaction between them and, therefore, complainant apprehends that, his brother, who was found dead on 15.8.2013, must have been killed by Rakeshbhai Ratanlal Verma and his friends, because dead-body of victim Ayub was found in a public toilet in Hardasnagar area of the city with several injuries by sharp cutting instrument. It is also disclosed that his brother was missing after 7 p.m. of 14.8.2013 i.e. the previous evening.

**4** After investigation, police has filed detailed chargesheet showing as many as 64 witnesses alleging that on 14.8.2013 all the accused have called upon the deceased Ayubhai Mohammadbhai Multani, brother of the complainant at their place and after offering him liquor, when he became out of control, they have killed him with sharp cutting instrument and looted valuables from his body like golden chain, ring and Rs.4000/- cash and, thereafter, they have shifted him in a auto- rickshaw from one place to another and dropped his dead-body in a public toilet of Narsinhjini Chali, Hardasnagar area of Bapunagar in Ahmedabad and, thereafter, they have destroyed the evidence in the form of blood-stained clothes, weapons and other materials by throwing it in Sabarmati river.

**5** Pursuant to such allegation, accused were arrested and, ultimately, by impugned order, in each such application, the Sessions Court has granted bail in favour of all of them on different dates. However, considering the fact that they all are facing the same charges under the same FIR and the same chargesheet, their applications are dealt with together.

**6** Thus, prima facie it is the case of circumstantial evidence whereby investigating agency has concluded that respondents herein have committed the offence as alleged and described herein above.

Considering such fact, the trial Court has released all of them on bail though the charges are u/s.302 of the IPC. However, after releasing on bail by the impugned order in their favour, all the three accused i.e. accused No.1,2 and 3 have on 26.2.2014 been to the present petitioner - complainant near Shardaben Hospital where petitioner has gone for some treatment and they have abused the petitioner - complainant contending that now they are released on bail though they have killed his brother and threatened that if complainant will not compromise the FIR under reference, then, they will kill the complainant and his family members.

**7** Copy of both the FIRs and relevant police papers are produced on record which prima facie confirms the commission of offence as alleged in both the FIRs. Therefore, when present accused have committed breach of order of bail in their favour by threatening the complainant - petitioner, though it can be said that such threatening itself would not be sufficient to cancel the bail, the impugned order is required to be interfered considering the fact that if at all petitioner - complainant wants to involve the accused in a false complaint, then, he would have disclosed the name of all four accused in the FIR.

However, it becomes clear that in second FIR being II C.R.No.3055 of 2014 u/ss.323 and 506(2) of the IPC, accused No.1 - Mohammed Irshad @ Mulla Daulatbhai Ghanchi is not involved.

**8** Therefore, considering the nature of incident involved in the FIR in question, when there was a heinous crime against a human being and, thereafter, when respondent accused have threatened the complainant to kill him and his family, there is a reason to interfere in the order of bail for breach of its terms and conditions by cancelling the order of bail. Therefore, all these applications are required to be allowed by cancelling the bail of respondent - accused. In support of his application, applicant is relying upon the decisions in the case of :-

(1) Gulabrao Baburao Deokar Vs. State of Maharashtra & Ors. reported in 2013 STPL (Web) 1033 SC and

(2) Pooja Bhatia Vs. Vishnu Narain Shivpuri & Ors. reported in 2014 STPL (Web) 183 SC.

I have gone through the decisions cited above, and the same certainly supports the stand taken by this Court.

**9** For coming to such conclusion, this Court has relied upon following decisions:

A) In the case between Subodh Kumar Yadav v. State of Bihar and Anr. reported in AIR 2010 SC 802, the Apex Court has confirmed the cancellation of bail which was granted for the offences committed u/Ss. 498(A), 384, 307 and 406 of IPC considering that all such application cannot be considered as an application for cancellation of bail for breach of any condition of bail when original order granting bail has been challenged on its propensity and more particularly, when it is found that while granting the bail, the trial Court has taken into consideration totally irrelevant documents and exhibited undue haste in deciding the application for bail and the judicial discretion was also not exercised properly. The Apex Court has considered that observations in several reported judgments which are referred in this cited case were not entitled to restrict the power of the superior Court to cancel the bail in appropriate cases on grounds other than breach of condition of bail order. It is further stated that if a superior Court finds that the Court granting bail had acted in irrelevant material and if there was nonapplication of mind or failure to take note of any statutory bar to grant bail, or if there was manifest impropriety e.g. failure to hear the Public Prosecutor / Complainant where required, an order of cancellation of bail can be made. For arriving at such conclusion, the Apex Court has relied upon several previous decisions also.

B) In Guria, Swayam Sevi Sansthan v. State of U.P. And Ors. Reported in AIR 2010 SC (SUPPL) 440, the Apex Court has reconfirmed the above view that granting of bail should be considered having regard to the gravity of the offence for which the accused had been charged and with reference to the case of Puran v. Rambilas and Anr.(Supra), it is reconfirmed that one of the grounds for cancellation of bail would

be whether material evidence brought on record have been ignored and that too without any reason.

C) In *Lokesh Singh v. State of U.P.*, reported in AIR 2010 SC 94, the Apex Court has though carved out following factors for consideration while dealing with the application for bail, order of bail was set aside when bail was granted without assigning reasons in the case where accused was charged of criminal conspiracy to murder. The relevant Paragraphs need to be reproduced hereunder:

8. While dealing with an application for bail, there is a need to indicate in the order, reasons for prima facie concluding why bail was being granted particularly where an accused was charged of having committed a serious offence. It is necessary for the courts dealing with application for bail to consider among other circumstances, the following factors also before granting bail, they are :

1. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence;

2. Reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

3. Prima facie satisfaction of the Court in support of the charge,

9. Any order de hors such reasons suffers from non-application of mind as was noted by this Court, in *Ram Govind Upadhyay v. Sudarshan Singh and Ors.* [(2002) 3 SCC 598], *Puran etc., v. Rambilas and Anr. Etc.* [(2001) 6 SCC 338] and in *Kalvan Chandra Sarkar v. Rajesh Ranjan alias Pappu Yadav and Anr.* [JT 2004 (3) SC 442].

10. Though a conclusive finding in regard to the points urged by the parties is not expected of the Court considering the bail application, yet giving reasons is different from discussing merits or demerits. As noted above, at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merits of the case has not to be undertaken. But that does not mean that while granting bail some reasons for prima facie concluding why bail was being granted is not required to be indicated. 11. In *Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav and Anr.* (2004 (7) SCC 528). In para 11 it was noted as follows :

"11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are :

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge. (See Ram Govind Upadhyay v. Sudarshan Singh (2002 (3) SCC 598) and Puran v. Rambilas (2001 (6) SCC 338).

12. It was also noted in the said case that the conditions laid down under Section 437 (1)(i) are sine qua non for granting bail even under Section 439 of the Code.

13. In Puran v. Rambilas and Anr. (2001 (6) SCC 338) it was noted as follows :

"11. Further, it is to be kept in mind that the concept of setting aside the unjustified, illegal or perverse order is totally different from the concept of cancelling the bail on the ground that the accused has misconducted himself or because of some new facts requiring such cancellation. This position is made clear by this Court in Gurcharan Singh v. State (Delhi Admn.). In that case the Court observed as under : (SCC p. 124, para 16) "If, however, a Court of Session had admitted an accused person to bail, the State has two options. It may move the Sessions Judge if certain new circumstances have arisen which were not earlier known to the State and necessarily, therefore, to that court. The State may as well approach the High Court being the superior court under Section 439(2) to commit the accused to custody. When, however, the State is aggrieved by the order of the Sessions Judge granting bail and there are no new circumstances that have cropped up except those already existing, it is futile for the State to move the Sessions Judge again and it is competent in law to move the High Court for cancellation of the bail. This position follows from the subordinate position of the Court of Session visavis the High Court."

Above being the position, we are of the view that the High Court was not justified in granting bail to respondent No.2. The order granting bail is set aside. The respondent No.2 who was released on bail shall surrender to custody forthwith. We make it clear that we have not expressed any opinion on merits of the case...

D) In most of the citations, case of Puran v. Rambilas and Anr., reported in AIR 2001 SC 2023 has been relied upon and therefore it would be appropriate to scrutinize said judgment. In such reported case, when Sessions Court has granted bail to the accused and when High Court has cancelled such bail, the Apex Court has confirmed the cancellation of bail u/S.437 read with Section 439 of Cr.P.C. holding that concept of setting aside order of bail is different from concept of cancelling order of bail on the ground that accused has misconducted himself or because of the fact that new facts have been arisen. It is also made clear that it is not necessary to go into merits or demerits of the matter and only prima facie evidence is to be looked into. This decision is followed in AIR 2007 SC 3064 as well as AIR 2009 SC 1452. The material part of the judgment would be necessary to reproduce, which reads as under:

8. The High Court has correctly not gone into merits or demerits of the matter. The High Court has noted that evidence prima facie indicated demand of dowry. The High Court has briefly indicated the evidence on record and what was found at the scene of the offence. The High Court has indicated that evidence prima facie indicated that a demand for Rs. 1 lac was made just a month prior to the incident in question. The High Court has stated that the material on record suggested that the offences under Sections 498A and 304A were prima facie disclosed. The High Court has concluded that the material on record, the nature of injuries, demand for Rs. 1 lac and the other circumstances were such that this was not a fit case granting bail. Thus the High Court has given very cogent reasons why bail should not have been granted and why this unjustified erroneous Order granting bail should be cancelled.

9. It is, however, to be noted that this Court has clarified that these instances are merely illustrative and not exhaustive. One such ground for cancellation of bail would be where ignoring material and evidence on record a perverse order granting bail is passed in a heinous crime of this nature and that too without giving any reasons. Such an order would be against principles of law. Interest of justice would also require that such a perverse order be set aside and bail be cancelled. It must be remembered that such offences are on the rise and have a very serious impact on the Society. Therefore, an arbitrary and wrong exercise of discretion by the trial Court has to be corrected.

10. Further, it is to be kept in mind that the concept of setting aside the unjustified, illegal or perverse order is totally different from the concept of cancelling the bail on the ground that accused has misconducted himself or because of some new facts requiring such cancellation...

E) Recently, in the case of Kunwar Singh Meena v. State of Rajasthan and Anr., reported in AIR 2013 SC 296, the Apex Court has reconfirmed that Court has not to undertake meticulous example while granting or refusing bail. However, when statement of witnesses before the Police confirms the prima facie involvement of the accused in crime and when brother of the accused, an IPS Officer, bail granted to accused was cancelled by the Apex Court considering that propensity of accused to tamper with evidence and to interfere with the due course of justice and to flee from justice are not only the considerations to cancel the bail but it can be cancelled even if order of granting bail is legally infirm leading to miscarriage of justice.

F) Even in the latest judgment between Ranjit Singh v. State of M.P. And Ors. in Criminal Appeal no.1545 of 2013 on 27.9.2013, the Apex Court has reconfirmed the above position of law. After referring several previous judgments, the Apex Court has held as under:

... 21. In Chaman Lal v. State of U.P.[1], this Court, while dealing with an application for bail, has stated that certain factors are to be borne in mind and they are:

(i) the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, (ii) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant, and (iii) prima facie satisfaction of the court in support of the charge.

G) In *Prasanta Kumar Sarkar v. Ashis Chatterjee* [2], this Court, while emphasizing on the exercise of discretionary power generally has to be done in strict compliance with the basic principles laid down in plethora of decisions of this Court, has observed as follows:

9.... among other circumstances, the factors which are to be borne in mind while considering an application for bail are: i) whether there is any prima facie or reasonable ground to be believed that the accused had committed the offence;

ii) nature and gravity of the accusation;

iii) severity of the punishment in the event of conviction; iv) danger of the accused absconding or fleeing, if released on bail; v) character, behavior, means, position and standing of the accused; vi) likelihood of the offence being repeated;

vii) reasonable apprehension of the witnesses being influenced; and viii) danger, of course, of justice being thwarted by grant of bail.

H) The said principles have been reiterated in *Ash Mohammad v. Shiv Raj Singh alias Lalla Babu and another* [3].

I) In this context, we may refer with profit to the recent pronouncement in *Central Bureau of Investigation v. V. Vijay Sai Reddy* [4] wherein the learned Judges have expressed thus:

28. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/ State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the Legislature has used the words reasonable grounds for believing instead of the evidence which means the Court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt. We repeat at the cost of repetition that the aforesaid aspects have not been kept in view by the learned Additional Sessions judge and, therefore, we are obliged in law to set aside the order passed by him and we so do. In view of the extinction of the order granting bail, the appellant shall surrender forthwith to custody failing which he shall be taken to custody as per law. Liberty is granted to the appellant to move an application for grant of regular bail. Needless to say, on such application



being moved, the same shall be considered on its own merits regard being had to the parameters which have been laid down in afore-stated authorities...

**10** Thereby the Apex Court has cancelled the bail.

**11** For the foregoing reasons, three applications being Criminal Misc.Applications No.4498 of 2014, 4499 of 2014 and 4500 of 2014 are allowed. Thereby, order dated 7.1.2014 of granting bail to respondent of Criminal Misc.Application No.4498 of 2014 - Imranahmed Ikhtiyarahmed Ansari in Criminal Misc. Application 4686/2013, order dated 24.1.2014 of granting bail to respondent of Criminal Misc.Application No.4499 of 2014 - Akramali, s/o.Sattarbhai Ghanchi in Criminal Misc. Application 262/2014 and order dated 18.2.2014 of granting bail to respondent of Criminal Misc.Application No.4500 of 2014 - Vijaysing @ Vijju Kishansing Tomar in Criminal Misc. Application 393/2014 passed by the Judge, Court No.16, City Civil Court, Bhadra, Ahmedabad are hereby quashed and set aside, both for misusing the order of bail after its grant and also on the ground that order of bail itself was improper and illegal. Thereby, the applications are allowed as aforesaid. Rule is made absolute qua them.

**12** Considering the fact that respondents of the present applications are on bail from last few months, it would be appropriate to grant them sufficient time to surrender. Respondents have to surrender before the Investigating Officer within three weeks from today. If respondents fail to surrender before such period, the Sessions Court shall issue necessary warrant against them.

**13** Thereby, when the respondents will be under trial prisoners, the Sessions Case is directed to conduct the trial on day to day basis. For the purpose, investigating agency is directed to keep all the witnesses available before the Court on dates fixed by the trial Court for their evidences.

**14** It is made clear that observations in this order are made purely for adjudicating present applications only and trial Court shall not be influenced by any observations made in this order.

**15** So far as order dated 7.3.2014 of granting bail to respondent of Criminal Misc.Application No.4497 of 2014 - Mohammed Irshad @ Mulla Daulatbhai Ghanchi in Criminal Misc. Application 774/2014 is concerned, since this respondent has not involved himself in second offence u/ss.323 and 506(2) of the IPC for which second C.R.No.3055 of 2014 is lodged, order granting bail in his favour may not be interfered or quashed. Therefore, Criminal Misc.Application No.4497 of 2014 is dismissed. Rule is discharged qua him.

**16** It is also clear and certain that petitioner has claimed to cancel the bail on merits of the impugned order and not because of misdeed or breach of any condition of the bail. Detailed discussion of available evidence is unnecessarily prejudice the pending trial and therefore the same is avoided.

**17** Recently, in Criminal Case nos.1542 of 2014 and 1766 of 2014 between Ankit Sharma v. State of NCT of Delhi and State of NCT of Delhi v. Gopal Goyal Kanda, Delhi High Court

has considered the applications for cancellation of bail in such case of suicide, wherein, facts are more serious than the present case. Inasmuch as, the deceased has left two suicide notes disclosing the name of the accused responsible for compelling her to end her life. The Delhi High Court has after narrating all the relevant factual details taken care of all the judgments cited by both the sides in both the cases, which are as under:

13. Learned counsel for the petitioner has relied upon judgments in State of Maharashtra vs. Captain Buddhikota Subha Rao, AIR 1989 SC 2292, Kishore Samrite vs. State of U.P. & Ors., (2013) 2 SCC 398, State through CBI vs. Amarmani Tripathi, VII(2005) SLT 160, Prahlad Singh Bhati vs. NCT of Delhi & Anr., AIR 2001 SC 1444, Gurcharan Singh & Ors. vs. State (Delhi Administration), AIR 1978 SC 179, A.V. Papayya Sastry vs. Govt. of A.P. & Ors., (2007) 4 SCC 221 and Kalyan Chandra Sarkar vs. Rajesh Ranjan @ Pappu Yadav & Anr., (2004) 7 SCC 528.

17. Learned counsel for the respondent has relied upon judgments in Sanjay Chandra vs. Central Bureau of Investigation, (2012) 1 SCC 40, H.B. Chaturvedi vs. CBI, 2010 (171) DLT 223, Avtar Singh vs. State of Punjab, (2010) 15 SCC 529, Laloo Prasad alias Laloo Prasad Yadav vs. State of Jharkhand, (2002) 9 SCC 372, Deepak Shubhashchandra Mehta vs. CBI & Anr., (2012) 4 SCC 134, Dolat Ram & Ors. vs. State of Haryana, (1995) 1 SCC 349, Ramcharan vs. State of M.P., (2004) 13 SCC 617, Nityanand Rai vs. State of Bihar & Anr., (2005) 5 SCC 178, Hazari Lal Das vs. State of West Bengal & Anr., (2009) 10 SCC 652, Jai Kumar vs. Balhari & Anr., II(2011) SLT 302, Rahmita vs. State & Ors., I(2012) VIII AD (Delhi) 376, Govind Narain Johari vs. State & Anr., 2013 V AD (Delhi) 179 and Suresh Kalmadi vs. CBI, 2012 (187) DLT 575.

**18** The Delhi High Court has quoted relevant paragraph of relevant citations. Therefore, repetition of all such paragraphs are not necessary at present but what is concluded by Delhi High Court in Paragraph nos. 23, 24 and 28 are reproduced as under:

23. It is a settled law that bail granted can be cancelled on the ground which has arisen after the bail was granted. It is generally presumed that at the time of hearing of the bail application, the prosecution has raised all possible grounds which could go against the accused in the matter of bail and, therefore, when once bail has been granted to the accused, the prosecution cannot have the bail cancelled on some circumstances which may have existed before the grant of bail.

24. The ground of cancellation of bail and grounds of rejection of bail are two different circumstances and hence the approach of the Court should also be different. At the time of hearing the bail application, the Court looks at the possibilities of the violation of bail conditions and the Court has to be more open and flexible, whereas while hearing the cancellation application, the Court has to be more rigid and it has to examine not only the possibility of violations but whether the actual violation has taken place or not. The Court should be more rigid here and actual proof of violation is required.

28. No doubt, the offence with which respondent/accused is charged is serious in nature, but every accused is presumed innocent until proven guilty beyond

reasonable doubt and every accused person has the right to enjoy the bail granted to him unless there is evidence to show the abuse of this right given to him. It is re-emphasized by this Court that at the time of dealing with the question of cancellation of bail of an accused, the only issue which is germane is whether the accused has misused the conditions of bail or tampered with the investigation or the evidence or not.

**19** The applications being Criminal Misc.Applications No.4498 of 2014, 4499 of 2014 and 4500 of 2014 are allowed and application being Criminal Misc.Application No.4497 of 2014 is dismissed.