

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CRIMINAL APPLICATION (CANCELLATION OF BAIL)
NO. 5652 of 2024**

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KARUNESH KHUMANDAS PANCHAMVEDI

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR AJ YAGNIK(1372) for the Applicant(s) No. 1

for the Respondent(s) No. 2,3,4,5

MR CH DAVE, ADDL.PUBLIC PROSECUTOR for Respondent(s) No. 1

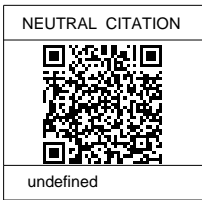
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CORAM:**HONOURABLE MR. JUSTICE J. C. DOSHI****Date : 09/05/2024****ORAL ORDER**

1. By way of the present petition under Section 439(2) of the Code of Criminal Procedure, 1973, the petitioner has prayed to quash and set aside the order dated 02.04.2024 passed by the learned Principal District and Sessions Judge, Kheda in Criminal Misc. Application No.410 of 2024, whereby the learned Session Judge has granted regular bail to the respondents – original accused.

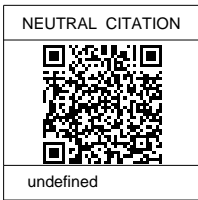
2. Heard learned advocate Mr.A.J.Yagnik appearing for the petitioner and learned APP appearing for the respondent State.

3. Assailing the order dated 02.04.2024 of regular bail granted in Criminal Misc. Application No.410 of 2024 by the learned Principal District and Sessions Judge, Kheda, learned advocate for the petitioner would submit that the present petitioner is a journalist. He has exposed the entire scam of



accused who are sand mafia. He would further submit that learned Sessions Judge has taken the issue very lightly and without discussing the core requirement of granting or rejecting the bail, has granted the bail to the respondent – accused. He would further submit that grave hurt was caused to the complainant which was not noticed by the learned Sessions Court while granting the bail. Even snatching of the golden chain is also not noticed by the learned Sessions Court while granting regular bail to the respondents – accused. It is submitted that bail has been granted by the learned Sessions Court in casual manner. He would further submit that even the photographs which are placed before the learned Sessions Judge indicating the injuries caused to the complainant have not been taken into consideration. The car of the complainant which was also ransacked has gone unnoticed while dealing with the bail application. In that circumstance, learned Sessions Judge has committed serious error in granting regular bail to the respondents - accused.

4. It is also sought to be submitted by learned advocate for the petitioner that the complainant shot video of the incident whereby the driver of the vehicle spoken foul language and threatened the complainant that the dumper belongs to one Mr.Vicky and if he is going to interfere with the activity of excavating the sand illegally, he will be taken to task. He would further submit that one Mr.Vicky also came along with six or seven persons. They had wooden sticks and sickles in their hands and after departing from the car, they started speaking foul language and then beaten up the complainant. This aspect which was recorded by the complainant has not been taken into



consideration by the learned Sessions Judge and as such, the learned Sessions Judge has committed serious error in granting bail. He would further submit that if consideration for granting and rejecting the bail has not been properly countenanced by the concerned Court, the complainant has locus to move application for cancellation of the bail. Upon above submissions, he would submit to cancel the bail of the accused.

5. On the other hand, learned APP in given facts and circumstances submitted to pass necessary orders.

6. Having heard learned advocate Mr.Yagnik for the petitioner, at the outset, I am refer to the reasons recorded by the learned Sessions Judge to grant regular bail to the respondent – accused, which reads as under :

“Perusing the police-papers, it appears that, Section-394 of Indian Penal Code has been applied; Section-394 of Indian Penal Code denotes looting with simple injury, therefore, the alleged injury caused to the complainant can not be said o be a grievous injury. It appears that, prosecution has not given any application or purshis to add Section-397 or Section-326 of Indian Penal Code in this case. In the police-papers, the Panchnama of Test Identification Parade is produced. Perusing the said Panchnama, it appears that the present applicants/accused have been identified by the complainant and his wife as the one who were presentatthe scene of offence and they had beaten him up. It appears from the said Test Identification Parade Panchnama, complainant has not identified any applicants/accused as the one who snatched the golden chain from his neck. From the facts in the F.I.R. and in the police-papers it appears that, the entire incident has happened on account of the reckless driving of dumper by its



driver and the attempt by complainant to rebuke the said driver after forcefully stopping the said dumper and thereafter attempt by the complainant to video shoot of dumper driver and his dumper, and that resulting into the dumper driver calling his master and his men at the scene of offence. That whether the applicants/accused or the crowd intended to commit dacoity at the scene of offence or not, is the subject of evidence in trial. That the police investigation in respect of the present applicants/accused is almost over. That the applicants/accused are the permanent residents of the addresses shown in the heading of the bail application, and that they are having the responsibility of maintaining their families. That the applicants/accused have given assurance that, they shall abide by all the conditions if granted bail. That the trial of the present case will take lot of time to be completed, therefore, there is no use keeping the present applicants/accused in further jail, therefore, it shall be in the interest of justice if the present applicants/accused are granted regular bail with strict conditions which can address the concerned of prosecution, therefore, the present bail application succeeds and following order is passed.”

7. What appears that the present petitioner who is complainant - journalist could not establish any super winning circumstance which may permit this Court to interfere with the impugned order of granting the bail. Denying the bail is one aspect and cancellation of bail once granted to the accused is directly touching with the concept of personal liberty of the accused.

8. In **Bhagwan Singh v Dilip Kumar @ Deepu @ Depak** reported in **2023 INSC 7613**, the Hon'ble Apex Court after considering judgment in case of **Dolat Ram v State of Haryana**,

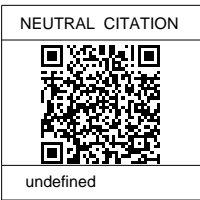


(1995) 1 SCC 349; Kashmira Singh v Duman Singh, (1996) 4 SCC 693 and X v State of Telangana, (2018) 16 SCC 511, held as follows:

'13. It is also required to be borne in mind that when a prayer is made for the cancellation of grant of bail cogent and overwhelming circumstances must be present and bail once granted cannot be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it inconducive to allow fair trial. This proposition draws support from the Judgment of this Court in Daulat Ram and others v. State of Haryana reported in (1995) 1 SCC 349, Kashmira Singh v. Duman Singh (1996) 4 SCC 693 and xxx v. State of Telangana (2018) 16 SCC 511.'

9. If we go through the offence alleged against the respondent accused, it is offence under Section 394 of IPC and there is offence of unlawful assembly and offence for giving threats of dire consequences are made. Learned Sessions Judge has recorded that in T.I. parade the complainant has failed to identify the person who has snatched the golden chain. This circumstance *prima facie* weighed the learned Trial Court to suspect about the stealing of the golden chain. There is no offence under Section 326 as alleged in the FIR. In view of that circumstance, learned Sessions Judge has granted bail. I find no reason to interfere with the impugned judgment and order granting bail.

10. Before parting with the order, I may also refer the observations made in the recent decision by the Hon'ble Apex Court in case of **Kekhriesatuo Tep and others Vs.National**



Investigating Agency reported in **(2023) 6 SCC 58**. The relevant observation made in para 20 reads as under:-

“20. An interference by an Appellate Court and particularly in a matter when liberty granted to a citizen was being taken away would be warranted only in the event the view taken by the Trial Court was either perverse or impossible. On this limited ground, we find that the appeals deserve to be allowed.”

11. Resultantly, present petition fails and stands dismissed at the admission stage.

GAURAV J THAKER

(J. C. DOSHI, J)