

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC. APPLICATION (FOR CANCELLATION OF BAIL) NO.
6267 of 2022**

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STATE OF GUJARAT
Versus
MITESH DILIPBHAI SEJPAL

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Appearance:

MS AV PATEL, PUBLIC PROSECUTOR for the Applicant(s) No. 1,2

MR. APURVA N MEHTA(7202) for the Respondent(s) No. 1

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CORAM:

HONOURABLE MR. JUSTICE J. C. DOSHI

Date : 01/02/2024

ORAL ORDER

Rule. Learned Advocate, Mr. Mehta, waives service for the Respondent.

1. By way of the present petition under Section 439(2) of the Code of Criminal Procedure, 1973, the petitioner State has prayed to quash and set aside the order dated 11.11.2021, passed by the learned District & Sessions Judge, Junagadh, in Criminal Misc. Application No. 651 of 2021, whereby, the learned Session Judge has granted regular bail to the respondent - original accused.

2. Heard learned APP for the petitioner State and learned Advocate, Mr. Mehta, for the Respondent-accused.

3. In '**Bhagwan Singh v Dilip Kumar @ Deepu @ Depak**', reported in 2023 INSC 7613, the Hon'ble Apex Court after considering the 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 in conducting 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.'

4. Learned APP though strongly argued to cancel the bail on submission that the concerned Court, while granting bail did not consider the factors to be considered for granting or rejecting the bail. It was also argued that the learned Sessions Court has failed to notice the detailed affidavit / objections filed by the original complainant. It was submitted that the concerned Court also failed to take note of the fact that bogus documents were created in the form of e-way bills, though, no actual transaction had taken place and thereby, a huge scam to the tune of more than Rs.700/- crore, involving the tax of Rs.35/- crore is committed. However, she failed to submit any supervening circumstances being rendered in conducting to allow fair trial or breach of any condition of bail.

5. On the other hand, learned Advocate, Mr. Mehta, supported the impugned order and submitted that the case of the co-accused was considered by the Coordinate Bench of this Court and he was granted regular bail vide order dated 11.07.2019, passed in Criminal Misc. Application No. 9641 of 2019. It was submitted that the aforesaid order has not been

challenged, till date. It was, therefore, prayed that this petition be dismissed.

6. Thus, this Court finds no circumstances, more particular, when the co-accused is granted bail by the Coordinate Bench of this Court and such order has remained un-challenged, till date, to adjudge the impugned order as unjust and contrary to the settled principles of law. As held earlier, the petitioner has failed to point out supervening circumstances, which may interfere with the fair trial.

7. Before parting with the order, I may also refer to 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 19 reads as under:-

“19. The learned Special Judge has himself distinguished cases of the persons who have indulged into extortion for furthering the activities of the organization and the persons like the present appellants, who were government servants, and compelled to contribute the amount. We, therefore, find that it cannot be said that the prima facie opinion, as expressed by the learned Special Judge, could be said to be perverse or impossible.”

8. Resultantly, present petition fails and stands **dismissed**. Rule is discharged.

(J. C. DOSHI,J)

UMESH/-