



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Bail Cancellation Application No. 20/2023

Ramesh Bairwa Son Of Shri Ramlal Bairwa, Resident Of Plot No. 7, Choudhary Colony, Sanganer District Jaipur Rajasthan.

----Petitioner

Versus

1. State of Rajasthan, Through P.P.
2. Manoj Pareek @ Fafula Son Of Shri Ramesh Chand, Resident Of Radhagovindpura Tehsil Newai Sadar District Tonk Presently Tenant House Of Mahendra Meena Shyam Nagar, Near Govindpura Railway Phatak, Shikarpura Road, Police Station Malpura Gate, District Jaipur Rajasthan

----Respondents

Connected With

S.B. Criminal Bail Cancellation Application No. 21/2023

Ramesh Bairwa Son Of Shri Ramlal Bairwa, Resident Of Plot No. 7, Choudhary Colony, Sanganer District Jaipur Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through P.P.
2. Mahendra Chhipa @ Dabbu Son Of Shri Lachhi Chhipa, Resident Of 166, Devnagar A, Anita Colony Hajyawala, Police Station Muhana District Jaipur Rajasthan

----Respondents

For Petitioner(s)	:	Mr.Sandeep Sharma with Mr.Krishan Kumar Yadav
For Respondent(s)	:	Mr.Rajesh Choudhary, GA-cum-AAG Mr.Manvendra Singh Choduhary, Dy.GA-cum-AAG Mr.Vinod Sharma Mr.Manish Gupta Mr.Sameer Sharma Mr.Neeraj Sharma

JUSTICE ANOOP KUMAR DHAND

Order

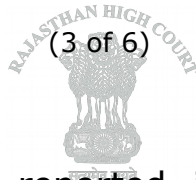


17/02/2025

1. These two applications for cancellation of bail of the accused-respondents Manoj Pareek and Mahendra Chhipa have been submitted by the complainant-petitioner (hereinafter referred to as "the complainant") on the ground that no notice was ever served upon him prior to disposal of their bail applications (Criminal Appeals).

2. Learned counsel for the petitioner submits that as per the provisions contained under Section 15 (A) of the SC/ ST Act, it is mandatory to send information to the complainant before hearing the bail of the accused-persons for the offences punishable under the offences under SC/ ST Act. Counsel submits that in the case of Mahendra Chhipa, indulgence of bail was granted to him on 28.11.2022, while the notice, as per the mandate contained under Section 15(A) of the Act, was sent to the complainant by the Assistant Commissioner of Police Sanganer Jaipur (East) on 03.12.2022 for its adjudication on 05.12.2022, thus, he was granted bail prior to the date mentioned in the said notice, i.e., on 28.11.2022. Counsel submits that the complainant has never received any information or communication about filing of the above two Criminal Appeals submitted by the above mentioned accused persons. Counsel submits that since there was a violation of the mandatory provision, contained under Section 15(A) of the SC/ ST Act, the bail granted to the accused-persons is liable to be cancelled.

3. In support of his contention, learned counsel for the petitioner has placed reliance upon the judgment passed by the Hon'ble Apex Court in the case of **Hariram Bhambhi Vs.**



Satyanarayan and Anr. reported in 2021 SCC OnLine SC 1010.

4. *Per contra*, learned Public Prosecutor as well as counsel for the accused-persons opposed the arguments raised by the counsel for the petitioner and submitted that in the case of Mahendra Chhipa, the complainant was informed on his mobile number about filing of the bail application by the concerned Investigating Officer on 08.10.2022. Counsel submits that similarly, in the case of Manoj Pareek, the complainant was informed by the concerned Investigating Officer on 25.08.2022. Counsel submits that this fact was recorded in a register maintained by the Investigating Officer and also a note was appended in the case diary to this effect on the relevant dates. Counsel submits that under these circumstances, there was a compliance of provisions contained under Section 15(A) of the SC/ ST Act, and hence, under these circumstances, interference of this Court is not warranted.

5. Heard and considered the submissions made at Bar and perused the material available on record.

6. Perusal of the record as well as the affidavit submitted by the concerned Officer-Incharge, i.e., Assistant Commissioner of Police, Sanganer Jaipur (East) indicate that the complainant was informed on his mobile number about filing of the bail application of Mahendra Chhipa on 08.10.2022. Similarly in the case of Manoj Pareek, the complainant was informed on 25.08.2022 on the same mobile number. This fact is narrated in the register maintained by the concerned Investigating Officer and so also in the case diary on the said date. The complainant was informed about filing of the bail application (Criminal Appeals) by the above two accused-



persons. It is worthwhile to mention here that the same method was adopted by the concerned Investigating Officer to send information of filing of bail application (Criminal Appeal) by the co-accused Sanjay Sagar. But in his case, the petitioner has not disputed about receiving information on his mobile number. The same mechanism has been adopted by the Investigating Officer in all the three bail matters submitted by the accused-Sanjay Sagar, Manoj Pareek and Mahendra Chhipa. Hence, under these circumstances, there was sufficient compliance of the mandatory provision, contained under Section 15-A of the SC/ ST Act and the victim was informed about filing of the bail applications (Criminal Appeals) by the accused-persons. It appears that there was a mistake on the part of the concerned Investigating Officer for re-sending information to the complainant again in the case of Mahendra Chhipa on 03.12.2022, after grant of bail to him on 28.11.2022. It also appears that there was certain miscommunication or non-communication between the Government Advocate/ Public Prosecutor and the Investigating Officer, even after passing of order of bail in the matter of the accused-person Mahendra Chhipa.

7. The Bombay High Court in the case of **Shobha Vs. The State of Maharashtra & Ors.** while deciding **Criminal Appeal No.378/2019** vide order dated 28.06.2019 has held that for compliance of Section 15(A)(3) of the SC/ ST Act and for intimation to the victim, the Investigating Officer should note down the Mobile Number of the victim and he can serve notice to the victim/ informant by SMS or WhatsApp. In the instant case also, as per the notings in the register as well as the case diary



indicate that the victim was informed about filing of the bail applications (Criminal Appeals) of both the accused persons on 08.10.2022 and 25.08.2022 respectively and thereafter, the bail applications (Criminal Appeals) of the accused-persons were decided by this Court on 28.11.2022. Meaning thereby that the compliance of Section 15(A) was made prior to deciding their bail applications (Criminal Appeals).

8. Notice under Section 15(A)(3) of the Act is mandatory in nature, however, presence of the victim during the course of the proceedings is not mandatory. On receipt of notice, it is left to the choice of the victim to participate or not to participate in the proceedings. In the instant case, the same course of action was adopted by the Investigating Officer which was adopted in the case of co-accused Sanjay Sagar. In that case also, the notice of bail application (Criminal Appeal) was send to the victim-petitioner and this fact was mentioned in the register as well as in the case diary.

9. In view of the above, this Court finds no merit and substance in these two applications for cancellation of bail and the same are hereby rejected.

10. Before parting with the order, this Court takes notice of the fact that we are living in an era of Information and Technology. The process of law cannot move like a bullock cart pace or snail's pace in the age of Information and Technology. The Station House Officer and the Investigating Officer of all the Police Stations are required to be upgraded with the latest technological developments. Fruits of technology have to be put in the service of the people. In the legal process, the technology can play critical



role in effectuating the fundamental rights of the citizens, in particular, and in upholding the process of law, in general. A Nodal Officer is required to be appointed in each District of the State of Rajasthan who shall supervise the staff entrusted to discharge the duty of delivering and effecting service of notices on the victims.

11. In these peculiar circumstances, this Court issues a general mandamus to the Director General of Police (DGP) and the Principal Secretary, Department of Home, Government of Rajasthan to instruct all the Investigating Officers/ the Station House Officers of all the Police Stations to the effect that henceforth, in all those Bail Applications (Criminal Appeals), which are submitted under SC/ ST Act or the offences, which have occurred before the enforcement of B.N.S.S., whenever the Court directs the Public Prosecutor to send information to the complainant/ victim/ aggrieved party they shall produce a proof/ screenshot of the message/ text message/ WhatsApp Message, on record, enabling the Court to pass appropriate orders, before deciding the Bail Application (Criminal Appeals) submitted by the accused person.

12. Let a copy of this order be sent to the Principal Secretary, Department of Home and the DGP for necessary compliance of this order.

(ANOOP KUMAR DHAND),J

Aayush Sharma /2 & 3