



[2023:RJ-JP:39167]

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

S.B. Criminal Miscellaneous Bail Application No. 4527/2023

Sunderlal @ Chimpa S/o Late Shri Giriraj Prasad, Aged About 54 Years, R/o Meena Pura, Police Station Bagad Tiraya Currently Near Shiv Mandir Janta Colony, Mugska, Police Station N.e.b. District Alwar (Raj.) (At Present In Centaral Jail Alwar)

----Petitioner

Versus

1. State of Rajasthan, through P.P.
2. Ramswaroop @ Sarpa Meena S/o Birbal Meena, aged about 76 years, R/o Meenapura, Thana Bagad Tiraya, District Alwar
3. Prem Devi W/o Yaadram Meena, aged about 27 years, R/o Meenapura, Thana Bagad Tiraya, District Alwar
4. Ankit Meena S/o Shri Madanlal Meena, aged about 23 years, R/o Meenapura, Thana Bagad Tiraya, District Alwar

----Respondents

Connected With

S.B. Criminal Bail Cancellation Application No. 70/2023

Ankit Meena S/o Madan Lal Meena, Aged About 23 Years, R/o Meenapura, P.s Bagar Tiraha, Alwar (Raj.)

----Petitioner

Versus

1. State of Rajasthan, through PP
2. Ramlal S/o Late Girraj Prasad, Aged About 47 Years, R/o Meenapura, Bagar Tiraha, District Alwar (Raj.)

----Respondents

S.B. Criminal Bail Cancellation Application No. 71/2023

Ankit Meena S/o Madan Lal Meena, Aged About 23 Years, R/o Meenapura, P.s Bagar Tiraha, Alwar (Raj.)

----Petitioner

Versus

1. State of Rajasthan, through PP
2. Lalaram Meena S/o Girraj Prasad, Aged About 48 Years, R/o Meenapura, Bagar Tiraha, Alwar (Raj.)

----Respondents

For Petitioner(s)	:	Mr. Deepak Chauhan for Accused Sunderlal
For Respondent(s)	:	Mr. B.L. Nasuna, PP Mr. G.L. Sharma for complainant- Ankit Meena Mr. Amit Jindal with Ms. Neetu Bansali for Accused- Lalaram and Ramlal

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

12/12/2023

1. Heard learned counsel for respective parties including learned Public Prosecutor and perused the record.



2. These three applications are connected with one FIR No.1/2023 registered at Police Station Bagar Tiraha, Alwar for offences u/s 143, 323, 341 and 302 of IPC and Section 3(2)(va) of the SC/ST (Prevention of Atrocities) Act, therefore, with consent of counsel for both parties, have been heard together and would stand decided by this common order.

3. Relevant facts, in brief are that complainant Ankit Meena lodged one FIR No.1/2023 at Police Station Bagar Tiraha, Alwar on 01.01.2023, stating inter alia, that on 31.12.2022 at around 10:30 PM, the complainant and deceased Yadram were returning to their village, when they stopped for urination at Bamboli Road near Meenapura, Lalaram Meena, Sunderlal @ Chimpa, and Ramlal S/o Girraj Meena, R/o Meenapura along with other three persons came in vehicle 'Thar' and on two motorcycles. These people tried to run over us moving their vehicles fast. It is stated that when we said that will you drive the vehicle on us, they started to abuse and caught me and Yadram. They were having sticks, road and spatula (palta). It is stated that Lalaram and Sunderlal @ Chimpa caught both hands of Yadram and asked Ramlal to hit, then Ramlal hit hard on the head of Yadram with the iron spatula (palta) with an intention to kill him, thereby Yadram fell down at the spot, Lalaram and Sunderlal kicked Yadram and hit him with sticks. Yadram died on the spot. It is stated that when I screamed, all these persons kicked and hit me with sticks and threat that they will kill him as well and they all ran away from the spot. It is stated that Deepchand S/o Ramswaroop and other people came at the spot, ambulance was called and in the



ambulance, complainant-Ankit Meena, Deepchand and Yadram went to hospital at Alwar where Doctors declared Yadram dead.

4. During course of investigation, Ramlal, Sunderlal @ Chimpa and Lalaram Meena who are named in the FIR and against whom there are specific allegations to hit the deceased, were arrested.

Other three persons namely Ravi Meena, Rajesh Kumar @ Rajendra and Tinku Meena, who are not named in the FIR were, also arrested. On the information of Ramlal, spatula (Palta) has been recovered. In statements of complainant Ankit Meena recorded under Section 161 Cr.P.C., he stated that Tinku Meena and Ravi Meena came in the vehicle Thar and attempted to run over the vehicle upon them, when they objected, both started abusing, then on their telephone, two motorcycles from Meenapura came. On one motorcycle Ramlal and Rajesh Kumar @ Rajendra were sitting and on the another motorcycle Lalaram and Sunderlal @ Chimpa were sitting. There was spatula of iron (Palta) in the hand of Ramlal and sticks in hands of others. He stated that Lalaram and Sunderlal @ Chimpa caught hold, deceased Yadram, and Ramlal hit him hard on the head 2-3 times by the iron spatula with an intention to kill him; After that Lalaram hit Yadram on his head with stick. On screaming by the complainant, Rajesh Kumar @ Rajendra and others gave beatings to him by fist and legs. He stated that Deepchand, brother of Yadram and one Kamal Meena from their village also came at site and thereafter accused persons ran away towards Meenapura on vehicle Thar and on two motorcycles. Statements of Deepchand, who happens to be brother of deceased, have also been recorded, who made statements leveling an allegation against Lalaram and Sunderlal @



Chimpa to hold the deceased Yadram and against Ramlal to hit by spatula, on the head to Yadram.

5. After investigation, police submitted charge-sheet against Ramlal, Sunderlal @ Chimpa and Lalaram for offences under Sections 143, 323, 341, 302 & 120B of IPC and against other two namely Ravi Meena and Tinku Meena, charge-sheet was filed under Section 143, 323, 341, 302, 307 & 120B of IPC and against Rajesh Kumar @ Rajendra for offences under Sections 143, 323, 341, 302 & 120B read with Section 3(2)(v) of the SC/ST Act.

6. As per record, it appears that the Coordinate Bench of this Court vide order dated 25.04.2023, enlarged accused persons namely Ravi Meena, Rajesh Kumar @ Rajendra and Tinku Meena on bail under Section 439 Cr.P.C. The High Court, allowed bail applications of these three accused persons, taking note of the facts that they are not named in the FIR and allegations to hold the deceased Yadram are against the Lalaram and Sunderlal @ Chimpa, and allegation to hit deceased Yadram on head by spatula, is against Ramlal.

It is noteworthy that, though, the present bail application of Sunderlal @ Chimpa being S.B. Criminal Miscellaneous Bail Application No.4527/2023, was also listed before the High Court on 25.04.2023, but his bail application was adjourned by the same order, as reflects from the order dated 25.04.2023 itself.

7. It is quite surprising that on the basis of bail order dated 25.04.2023 passed by the High Court, releasing the accused persons Ravi Meena, Rajesh Kumar @ Rajendra and Tinku, on bail, though the bail application of Sunderlal @ Chimpa being S.B. Criminal Misc. Bail Application No.4527/2023 was pending for



consideration before the High Court, yet the Court of Special Judge, SC/ST (Prevention of Atrocities) Cases, Alwar (hereinafter referred as Sessions Judge), granted the bail application of accused Lalaram Meena, under Section 439 Cr.P.C. vide order dated 02.05.2023, mainly on the ground that case of Lalaram is not differentiable than other three co-accused, who have been granted bail by the High Court, vide order dated 25.04.2023. Thereafter, vide another order dated 05.05.2023, accused Ramlal has also been released on bail under Section 439 Cr.P.C. by the Sessions Judge, with same findings and mainly on the ground that case of Ramlal is not differentiable than other three co-accused namely Ravi Meena, Rajesh Kumar @ Rajendra and Tinku Meena, who released on bail by the High Court.

8. The pending bail application of Sunderlal @ Chimpa being bail application No.4527/2023 under Section 439 Cr.P.C., has come up for consideration before this Court today and since in the meanwhile, the complainant Ankit Meena also filed two separate applications for cancellation of bail under Section 439 (2) of Cr.P.C., challenging the bail order dated 05.05.2023 and 02.05.2023 passed by the Sessions Judge, releasing the accused Ramlal and Lalaram Meena on bail under Section 439 Cr.P.C. Thus, in such backdrop of facts, all three applications have come up for consideration before this Court.

S.B. Criminal Misc. Bail Application No. 4527/2023:

9. Counsel for petitioner-accused Sunderlal @ Chimpa argued that petitioner is in custody since 04.01.2023, the allegation to hit the deceased Yadram on his head by spatula is against the Ramlal and spatula has been recovered on his information, there are no



blood stain on the spatula and Ramlal too has been released on bail; the charge-sheet has been filed, therefore, the petitioner be released on bail.

10. Learned Public Prosecutor opposed the bail application and stated that there is clear allegation against the petitioner Sunderlal @ Chimpa to caught hold the deceased Yadram as also to gave a blow by stick on his head and two prosecution witnesses namely Ankit (complainant) and Deepchand (brother of deceased) have clearly made allegation against petitioner and yet no prosecution witnesses has been examined, therefore, petitioner Sunderlal @ Chimpa may not be released on bail.

11. The Hon'ble Court in several decisions has expounded the legal proposition to be kept in mind by Courts while considering the bail applications. It is well settled that for granting or refusing bail the Court should exercise its discretion in a judicious manner and not as a matter of course. For grant or denial of bail, the nature of crime has a huge relevancy, apart from considering several other relevant factors. In this context reference can be made to the celebrated judgment of the Apex Court in case of **Ram Govind Upadhyay Vs. Sundershan Singh [(2002) 3 SCC 598]**, wherein the Apex Court in para No.3 & 4 of the judgment observed thus:-

"3. Grant of bail though being a discretionary order— but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with



other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail—more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.

4. Apart from the above, certain other which may be attributed to be relevant considerations may also be noticed at this juncture, though however, the same are only illustrative and not exhaustive, neither there can be any. The considerations being:

(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.

(c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.

(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

The key considerations which governed the grant of bail and elucidated hereinabove, have been reiterated by the Supreme Court time and again, in the judgment of **Neeru Yadav Vs. State of Uttar Pradesh [(2014) 16 SCC 508]** and recently in case of **Deepak Yadav V State of Uttar Pradesh decided on 20.05.2022 [(2022) 8 SCC 559]**.

12. Having considered the rival contentions of counsel for both parties and in view of statements of Ankit Meena and Deepchand as recorded under Section 161 Cr.P.C. who have levelled allegation against the petitioner Sunderlal @ Chimpa and Lalaram to hold the deceased, and against Ramlal to inflict spatula blow on the head of deceased, and against Sunderlal @ Chimpa also to have given





stick blow while the deceased fell down. Both the material prosecution witnesses have not yet been examined, therefore, keeping in mind the key points as referred hereinabove, with reference to the judgments of Hon'ble Supreme Court, taking into consideration the gravity of offences and the severity of punishment, this Court does not deem it just and proper to enlarge the petitioner Sunderlal @ Chimpa on bail at this stage.

13. However, after recording statements of material witnesses including two eye witnesses Ankit Meena- complainant and Deepchand Meena, petitioner would be at liberty to move afresh bail application before the Sessions Judge.

14. With such liberty, the bail application filed by Sunderlal @ Chimpa is rejected.

S.B. Criminal Bail Cancellation Applications No. 70/2023 & 71/2023:

15. In respect of bail orders dated 02.05.2023 and 05.05.2023 passed by the Sessions Judge releasing the accused persons Ramlal and Lalaram Meena on bail under Section 439 Cr.P.C. are concerned, it has been argued by the counsel for complainant that there is specific allegation against Ramlal to hit the deceased Yadram on his head by iron spatula and allegation against Lalaram is to caught hold the Yadram. Both are named in the FIR and are facing the criminal trial to commit the murder of deceased Yadram. Learned Sessions Judge has committed illegality and perversity in releasing both accused persons on bail under Section 439 Cr.P.C., even though none of prosecution witnesses have yet been examined, merely on the basis of applying the principle of parity and recorded the finding that their case is similar and not



differentiable to that of other three co-accused namely Ravi Meena, Rajesh Kumar @ Rajendra and Tinku Meena, who have been released on bail by the High Court vide order dated 25.04.2023. He submits that in view of specific allegations against accused Ramlal and Lalaram Meena, their case is entirely on different footings than the other three persons who were released on bail by the High Court vide order dated 25.04.2023, observing that these three accused are not named in the FIR and there is no direct allegation against them for committing murder of deceased Yadram. Hence, it has been submitted, the Sessions Court has passed both impugned orders granting bail, without application of judicious mind and contrary to record, as much both orders be granted.

16. Learned counsel appearing for and on behalf of accused persons namely Ramlal and Lalaram Meena, during their course of arguments, could not justify reasoning recorded by the Sessions Court in impugned orders dated 02.05.2023 and 05.05.2023, on the basis of which both accused persons were released on bail by applying the principle of parity. It cannot be denied that, findings and observations, recorded by Sessions Judge that their case is not differentiable than other three accused persons namely Ravi Meena, Rajesh Kumar @ Rajendra and Tinku Meena, do not find substantiation from the record, as well.

17. Having heard counsel for complainant and accused persons, as also from perusal of the record, it, prima facie, appears that the Sessions Court did not adverted to the nature of allegations levelled against the accused persons Ramlal and Lalaram Meena. As per allegations of FIR, Ramlal, Lalaram and Sunderlal @



Chimpa are named accused and as per statements of prosecution witnesses namely Ankit Meena and Deepchand Meena as recorded under Section 161 Cr.P.C., there is clear allegation that Lalaram Meena and Sunderlal @ Chimpa caught hold the deceased Yadram and Ramlal hit him hard on his head 2-3 times with the spatula. There is additional allegation against the Lalaram to hit deceased by stick. Whereas as far as other three co-accused namely Ravi Meena, Rajesh Kumar @ Rajendra and Tinku Meena are concerned, they are not named in the FIR and there is no allegation against three to hit the deceased Yadram. The allegation against Ravi Meena and Tinku Meena is that they attempted to run over the vehicle Thar on the complainant and deceased Yadram. The allegation against the Rajesh Kumar @ Rajendra is to hit them by fist and legs.

The Coordinate Bench of this Court while releasing the three co-accused persons on bail under Section 439 Cr.P.C. vide order dated 25.04.2023, has observed that they are not named in the FIR and the allegation to hold and hit the deceased is against Lalaram Meena, Sunderlal @ Chimpa and Ramlal.

18. Thus, it is prima facie clear and apparent on record that as per allegations levelled in the FIR and as per investigation report, the case of Ramlal and Lalaram Meena is not similar to that of three accused persons namely Ravi Meena, Rajesh Kumar @ Rajendra and Tinku Meena. This Court finds that the learned Sessions Judge has committed illegality and perversity in making observations and recording findings that the case of Ramlal and Lalaram Meena is not differentiable than the other three accused persons namely Ravi Meena, Rajesh Kumar @ Rajendra and Tinku





Meena. Such observations/findings, recorded by the Sessions Judge in orders dated 02.05.2023 and 05.05.2023 are contrary to the record and both orders exposes the non application of mind on the part of Sessions Judge. The principle of parity does not apply at all.

19. This Court is of the opinion that if the Sessions Judge has passed a bail order, without application of mind and on the basis of reasonings which, prima facie, appear to be contrary to record and are proved to be unjustified, illegal and perverse, in that situation the bail order should not be allowed to be sustained by the Higher Court.

20. It is well settled proposition of law that the cancellation of bail order can be considered by the higher Court on two aspects (i) the order granting the bail is based on untenable grounds and the bail order is apparently whimsical, capricious, passed without application of judicial mind and without considering the relevant considerations and is perverse and; (ii) after granting the bail order, the accused has misused the liberty of bail and due to some supervening circumstances, it is not justified to sustain the bail order.

21. It may be noted that both aspects for cancellation of bail order or setting aside the order of bail stand on different footings, and there are different considerations to deal with both aspects by the superior Court, while considering the application for cancellation of bail order or application to quash or set aside the bail order. It would be apposite to give a fruitful reference, in this context, of the celebrated judgment of Hon'ble Supreme Court in





case of **Neeru Yadav (supra)** wherein in para No.12, it was observed thus:

"12. We have referred to certain principles to be kept in mind while granting bail, as has been laid down by this Court from time to time. It is well settled in law that cancellation of bail after it is granted because the accused has misconducted himself or of some supervening circumstances warranting such cancellation have occurred is in a different compartment altogether than an order granting bail which is unjustified, illegal and perverse. If in a case, the relevant factors which should have been taken into consideration while dealing with the application for bail have not been taken note of, or bail is founded on irrelevant considerations, indisputably the superior court can set aside the order of such a grant of bail. Such a case belongs to a different category and is in a separate realm. While dealing with a case of second nature, the court does not dwell upon the violation of conditions by the accused or the supervening circumstances that have happened subsequently. It, on the contrary, delves into the justifiability and the soundness of the order passed by the court."

22. In case of **Jayaben Vs. Tejas Kanubhai Zala [(2022) 3 SCC 230]**, the Hon'ble Supreme Court made clarification and distinction in two aspects for cancellation of the bail order and quashing/setting aside the order of bail wrongly passed. It was observed by the Supreme Court as under:

"18. Now so far as the submissions on behalf of the accused that after the accused are released on bail by the impugned judgments and orders passed by the High Court, more than two-and-a-half years have passed and there are no allegations of misuse of liberty and therefore, the bail may not be cancelled is concerned, the aforesaid cannot be accepted. As per the settled preposition of law, cancellation of bail and quashing and setting aside the wrong order passed by the High Court releasing the accused on bail stand on different footings. There are different considerations while considering the application for cancellation of bail for breach of conditions, etc. and while considering an





order passed by the Court releasing the accused on bail. Once, it is found that the order passed by the High Court releasing the accused on bail is unsustainable, necessary consequences shall have to follow and the bail has to be cancelled.”

23. In case of **Abdul Basit @ Raju V Mohd. Abdul Kadir Choudhary, [(2014) 10 SCC 754]**, the Hon'ble Supreme Court, while dealing with the issue to set aside unjustified, illegal and perverse order granting bail by the Court and opined as under:

“19. Therefore, the concept of setting aside an unjustified, illegal or perverse order is different from the concept of cancellation of a bail on the ground of accused's misconduct or new adverse facts having surfaced after the grant of bail which require such cancellation and a perusal of the aforesaid decisions would present before us that an order granting bail can only be set aside on grounds of being illegal or contrary to law by the court superior to the court which granted the bail and not by the same court.”

24. The proposition of law referred hereinabove and as enunciated in catena of judgments by the Apex Court has been reaffirmed/reiterated in a recent judgment of Apex Court in case of **P Vs. Sate of Madhya Pradesh [2022 SCC OnLine SC 552]**. Thus, it can safely be held that an unjustified or perverse order of bail is vulnerable to interfere by the Superior Court.

25. In recent decision by the Hon'ble Supreme Court in case of **Deepak Yadav (supra)**, while dealing with the aspect of cancellation of bail, it has been held in para No.33 as under:-

“33. It is no doubt true that cancellation of bail cannot be limited to the occurrence of supervening circumstances. This Court certainly has the inherent powers and discretion to cancel the bail of an accused even in the absence of supervening circumstances. Following are the illustrative circumstances where the bail can be cancelled:



33.1. Where the court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record.

33.2. Where the court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim.

33.3. Where the past criminal record and conduct of the accused is completely ignored while granting bail.

33.4. Where bail has been granted on untenable grounds.

33.5. Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.

33.6. Where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified.

33.7. When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case."

(emphasis supplied)

26. A bare perusal of impugned bail orders dated 02.05.2023 and 05.05.2023, passed by the Sessions Judge, it appears that the learned Sessions Judge, did not consider the role alleged to be committed by the accused Ramlal and Lalaram Meena in the present case. The allegation made in the FIR against them as well as in statements of prosecution witnesses namely Ankit Meena and Deepchand Meena recorded during the course of investigation under Section 161 Cr.P.C. were not taken into consideration. It appears that without going through the material available in the charge-sheet and even without adverting to grounds on which the High Court granted bail to the three accused persons vide order dated 25.04.2023, namely Ravi Meena, Rajesh Kumar @ Rajendra and Tinku Meena, who are not named in the FIR and against whom no direct allegation to hit deceased Yadram have been made as much as the bail application of co-accused Sunderlal @





Chimpa was deferred by the High Court by the same order i.e. 25.04.2023 and remained pending for consideration, yet the Sessions Judge passed orders of bail mainly on the basis of applying the principle of parity to the case of Ramlal and Lalaram Meena with the case of Ravi Meena, Rajesh Kumar @ Rajendra and Tinku Meena. Indeed, according to the material on record, as discussed hereinabove in the foregoing paragraphs, there is no parity to the case of Ramlal and Lalaram Meena. On the information of Ramlal, a spatula (Patla) has been recovered. Thus, the learned Sessions Judge, without any proper discussion, applied the principle of parity arbitrarily just to release both the accused persons namely Ramlal and Lalaram Meena on bail, this prima facie shows that the impugned bail orders have been passed on the basis of wrong premise and impugned orders suffers from non-application of judicial mind as well as perversity and as such are unsustainable. Thus, in view of afore-discussed facts and proposition of law, this Court finds that the order granting bail to accused persons Ramlal and Lalaram Meena applying the principle of parity by the Court of Sessions Judge vide order dated 05.05.2023 and 02.05.2023 are unjustified, illegal and perverse.

27. In addition to above, counsel for complainant Ankit Meena has pointed out that accused persons Ramlal Meena and Lalaram Meena after releasing on bail, have also misused their liberty as both accused persons along with 6-7 people came at the house and threatened them not to give evidence against them in the Court else they will kill them. In that regard, they made a report dated 10.05.2023 whereupon after investigation, a complaint against Ramlal and Lalaram has been filed by the concerned SHO





at Police Station Bagar, Tiraha, Alwar before Sub-Divisional Magistrate, Ramgarh, Alwar on 18.05.2023. On such complaint, the concerned, Sub-Division Magistrate has initiated proceedings under Section 107 & 116 (3) Cr.P.C. bearing No.261/2023 titled SHO Bagar Tiraha Vs. Ramlal and Anr. wherein vide order dated 25.05.2023, summons have been issued against Ramlal and Lalaram to furnish bond to maintain the peace and tranquility. Copies of complaint, investigation report dated 18.05.2023 along with order dated 25.05.2023 have been placed on record.

28. Counsel for accused-petitioner submits that against proceedings initiated against them under Section 107 & 116(3) Cr.P.C. and the order dated 25.05.2023 passed therein, they have filed a criminal revision petition before the learned Sessions Judge, Alwar and same is pending.

29. Be that as it may, without expressing any opinion on merits in respect of proceedings initiated under Section 107 & 116(3) Cr.P.C. against the accused persons namely Ramlal and Lalaram Meena, which are pending under consideration before the concerned authority, this Court finds that material witnesses of prosecution including Ankit Meena and Deepchand Meena have not been examined in the present criminal case and the possibility to make an attempt to overreach or threaten prosecution witnesses by and on behalf of accused persons after their release on bail, may not be ruled out. Though, this Court is not expressing any opinion on merits, in respect of truthfulness of proceedings initiated against accused persons under Section 107 & 116(3) Cr.P.C., but it is suffice to observed that some material supervening circumstances have been placed on record before this



Court, to show that both accused persons misused the liberty of bail.

30. After having discussion about illegality and perversity of impugned orders dated 02.05.2023 and 05.05.2023, granting bail to accused Ramlal and Lalaram by the Sessions Court as also considering the availability of material to show some supervening circumstances, as referred hereinabove, though, without going into merits/demerits of proceedings under Section 107 & 116(3) Cr.P.C. and taking into consideration the nature of allegations against Ramlal and Lalaram Meena, gravity of offence as much as the fact that prosecution witnesses mainly eye witnesses Ankit Meena and Deepchand Meena have not been examined, this Court is of considered opinion that both accused persons should not have been released on bail by the Sessions Court, even during pendency of bail application No.4527/2023, of accused Sunderlal @ Chimpa before the High Court, which was deferred vide order dated 25.04.2023, on which Sessions Judge relied upon.

31. Accordingly, orders dated 02.05.2023 in bail application No.213/2023 and 05.05.2023 in bail application No.225/2023 passed by the Sessions Judge, granting bail to accused persons Ramlal and Lalaram Meena are hereby quashed and set aside.

32. The accused persons namely Ramlal and Lalaram Meena are directed to surrender before the trial Court on or before 10.01.2024, failing which, arrest warrant may be issued against them to take them in custody.

33. It is however, clarified that observations made by this Court in the present order would not affect the case of accused persons on merits and same shall not come in the way of final adjudication



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of the criminal case before the trial Court. It is also made clear that this order will not prevent the accused Ramlal and Lalaram Meena to move a fresh application for bail before the Sessions Court in changed circumstances, which shall be considered in accordance with law, uninfluenced by any of observations made by this Court in the present order.

34. As a result, S.B. Criminal Misc. Bail Application No.4527/2023 is rejected and S.B. Criminal Bail Cancellation Applications No.70/2023 & 71/2023 of Ramlal and Lalaram Meena are hereby allowed.

(SUDESH BANSAL), J

NITIN/6-8