Reserved On : 02/09/2026
Pronounced On : 14/09/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR CANCELLATION OF BAIL) NO. 4753 of 2023

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RAJESHKUMAR SHANKARLAL SOLANKI (MALI)
Versus
STATE OF GUJARAT & ORS.

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Appearance:
MR MB RANA(2760) for the Applicant(s) No. 1
PUBLIC PROSECUTOR for the Respondent(s) No. 1
UMARFARUK M KHARADI(8155) for the Respondent(s) No. 2,3

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CORAM:**HONOURABLE MR.JUSTICE SANJEEV J.THAKER**

CAV ORDER

1. This is an application for cancellation of bail preferred by the present applicant – original complainant under Section 439(2) of the Code of Criminal Procedure, 1973, seeking quashing and setting aside the impugned order passed by the learned trial Court, whereby the learned trial Court has granted regular bail to the respondent/s-accused in connection with FIR being C.R. No.11195034220484 of 2022 registered with the Palanpur East Police Station, District : Banaskantha, for the offences punishable under Sections 306, 511, 384, 506(1) and 114 of the Indian Penal Code.

2. Rule. Learned APP and learned advocates waive service of notice of rule for and on behalf of respondent – State and respondent/s – accused, respectively.

3. Learned advocate appearing for the applicant has vehemently submitted that the learned trial Court has failed to appreciate the gravity and seriousness of the offence alleged against the respondents–accused and has mechanically granted bail.

3.1 It is further submitted that while considering the bail application preferred by the respondent/s–accused, the learned trial Court did not adequately examine the evidence collected during the course of investigation and therefore, committed a grave error in exercising its discretion in favour of the accused. The learned advocate has drawn attention to the serious allegations levelled against the respondent/s–accused in the FIR and submitted that the nature and gravity of such accusations were not properly appreciated by the learned trial Court while granting bail.

3.2 Referring to the documents and material collected by the Investigating Officer, learned advocate for the applicant submitted that ample evidence has been gathered during the investigation, which, *prima facie*, establishes the direct involvement of the respondent/s–accused in the commission of the alleged offence. Despite the availability of such incriminating material, the learned trial Court failed to

assign proper weight to the same and erroneously granted bail to the respondent/s–accused.

3.3 Learned advocate for the applicant has submitted that the role of the respondent/s-original accused is not just of simple threats but it is a case of proselytizing as observed in the earlier order and the learned Judge has overturned the observations made in the earlier order while granting the bail. He submitted that the respondent nos.2 and 3 are headstrong persons and therefore, there is great possibility that they may jump the bail. He submitted that the learned Court below has wrongly come to the conclusion that there is a change in the circumstances and wrongly entertained the bail application of respondent nos.2 and 3 herein.

3.4 It is, therefore, submitted that the impugned order granting bail suffers from non-application of mind and improper appreciation of the material on record. Considering the seriousness of the offence, the strength of the evidence collected during investigation and the likelihood of prejudice to a fair investigation, it is submitted that the present application may be allowed by cancelling the bail granted to the respondents–accused in the interest of justice.

4. Learned Additional Public Prosecutor appearing for

the State has adopted the submissions advanced by the learned advocate for the applicant and has further submitted that the impugned order granting bail to the respondents–accused is contrary to the material available on record. It is contended that the learned Trial Court has granted bail without properly appreciating the evidence collected during the course of investigation and without taking into consideration the gravity and seriousness of the offence alleged against the respondents–accused.

4.1 It is, therefore, submitted that the learned Trial Court has exercised its discretion in an erroneous manner and that the impugned order deserves to be set aside and this Hon'ble Court may be pleased to allow the present application and cancel the bail granted to the respondents–accused.

5. *Per contra*, learned advocate appearing for the respondents–accused has opposed the present application and submitted that the impugned order granting bail is well-reasoned and speaking order passed upon due consideration of the facts and circumstances of the case. It is contended that the learned Trial Court has exercised its discretion judiciously and in accordance with settled principles of law and, therefore, no interference is warranted by this Hon'ble Court

in exercise of its jurisdiction. It is further submitted that the learned trial Court took the prima facie view of releasing the respondent/s-accused on bail and therefore also, this application is required to be rejected.

5.1 It is further submitted that while passing the impugned order, the learned Trial Court has extensively considered all the relevant aspects, including the nature of allegations, the material collected during the investigation, and the submissions advanced by both the sides. After appreciating the entire material available on record, the learned Trial Court found it appropriate to enlarge the respondents–accused on bail. Hence, it cannot be said that the order suffers from any illegality, perversity or non-application of mind so as to justify cancellation of bail.

5.2 It is also submitted that the prosecution has failed to point out any supervening circumstances warranting cancellation of bail. In particular, it is not the case that the respondents–accused have violated or flouted any of the conditions imposed while granting bail. There is no allegation that the respondents–accused have attempted to tamper with evidence, influence witnesses, obstruct the course of justice, or misuse liberty granted by the Court.

5.3 In view of the aforesaid facts and circumstances, it is submitted that no case is made out for cancellation of bail. The present application, being devoid of merits, deserves to be rejected and the bail granted to the respondents–accused may kindly be continued.

6. Having heard the learned advocates appearing for the respective parties and upon perusal of the impugned order passed by the learned Trial Court as well as the material available on record, the following points emerge:

6.1 The allegations against respondent No.2 arise from his relationship with the niece of the applicant – original complainant. It is the case of the applicant that respondent No.2 came in contact with his niece and developed a relationship with her. He is alleged to have gradually influenced her and thereafter her mother and brother also. When the father of the niece objected to her continued contact with respondent No.2, he was allegedly threatened with photographs and videos of his daughter in a compromising condition.

6.2 It is further alleged that respondent No.2 remained in contact with the family members of the applicant's brother and attempted to influence them to follow

a particular religion. When the applicant's brother objected to such conduct, his nephew filed proceedings by way of habeas corpus. During those proceedings, the niece, her mother and her brother stated that they did not want to live with or accompany the applicant's brother. They expressed their desire to live separately. It is also the case of the applicant that his brother had attempted to commit suicide.

6.3 The record shows that respondent Nos.2 and 3 had earlier filed applications for regular bail. The same came to be rejected by the learned 3rd Additional District Judge, Banaskantha at Palanpur, by order dated 16.09.2022. Thereafter, respondent No.3 preferred an application for regular bail before this Court. On 30.11.2022, the Coordinate Bench of this Court permitted respondent No.3 to withdraw the application with liberty to approach the competent Court after filing of the chargesheet. After the chargesheet was filed, the successive bail application came to be allowed on 22.12.2022.

6.4 While granting regular bail after charge-sheet, the learned trial Court considered the material collected during the investigation. It is noticed that respondent No.2 and the niece of the applicant were in a relationship. The statements of the wife, son and daughter of the applicant's brother were

also considered. Their statements were recorded under Section 164 of the Code of Criminal Procedure. They stated that respondent Nos.2 and 3 had not kept them in illegal confinement. They also stated that they had not been forced to convert to another religion. They further stated that no money was demanded from them and that the applicant's brother was not compelled to convert to another religion. They also did not support the allegation that respondent Nos.2 and 3 had abetted the suicide attempt.

6.5 The learned trial Court also considered the proceedings arising from the habeas corpus petition, where the concerned family members had stated that they did not want to accompany the applicant's brother. The learned trial Court also took into account the fact that respondent Nos.2 and 3 were in custody since 01.09.2022 and that they had no criminal antecedents.

6.6 By way of this application, the applicant – original complainant has challenged the grant of regular bail mainly on the ground that the material circumstances were not properly appreciated by the learned trial Court. According to the applicant, the allegations regarding threats, influence and pressure upon the family members, the circumstances leading to the habeas corpus proceedings and the suicide attempt of

the applicant's brother required greater consideration.

6.7 At this stage, it is necessary to keep in mind the limited scope of an application for cancellation of bail. Cancellation of bail stands on a different footing from rejection of bail. When bail is being considered, the Court decides whether the accused should be released. Once bail has been granted, the Court must examine whether there is sufficient reasons to withdraw the liberty already granted.

6.8 Further, bail can certainly be cancelled where the accused misuses the liberty, threatens or influences witnesses, tampers with evidence, commits another offence, avoids the proceedings or violates the conditions of bail. Further, it can also be cancelled where the order granting bail is shown to be based on no consideration of the relevant material or on a consideration which is wholly unreasonable.

6.9 In the present case, no such circumstance has been brought on record. There is no allegation that respondent Nos.2 and 3 have misused the liberty granted to them after their release. There is no material to show that they have threatened any witness, interfered with the investigation, tampered with evidence or violated any condition of bail.

6.10 The submissions made by the applicant, in substance, call upon this Court to reconsider the material which was already before the Court when the regular bail application was decided, that too it was filed after charge-sheet. The learned trial Court had considered the statements recorded under Section 164 of the Code of Criminal Procedure. It had also considered the stand taken by the concerned family members in the habeas corpus proceedings. The period of custody and the absence of criminal antecedents were also taken into account.

6.11 The fact that the applicant's brother attempted to commit suicide is undoubtedly a serious circumstance. However, at this stage, the question whether the acts attributed to respondent Nos.2 and 3 amount to abetment of suicide is a matter to be established during the trial. The allegations in the FIR cannot, by themselves, be treated as proof of the offence.

6.12 The allegations regarding the relationship, the alleged threats and the alleged influence upon the family members will have to be tested on the basis of evidence. The statements of the concerned family members recorded under Section 164 of the Code of Criminal Procedure are also a part of the material which was considered while granting

regular bail. This Court, while examining an application for cancellation, cannot ignore that material merely because the applicant seeks a different appreciation of the same.

6.13 The seriousness of the allegations is a relevant consideration while deciding bail. However, it is not by itself sufficient to cancel bail which has already been granted. The applicant has to show some substantial ground for interference. In the present case, such ground has not been established.

6.14 This Court is also unable to accept that the impugned order dated 22.12.2022 was passed without considering the relevant material. The statements of the concerned witnesses, the material relating to the habeas corpus proceedings, the period of custody and the antecedent position of the accused were before the learned trial Court. The reasons recorded by the learned trial Court cannot be said to be so unreasonable or perverse as would justify cancellation of bail.

6.15 It is true that the earlier bail application had been rejected on 16.09.2022 by the learned trial Court, but it was before the charge-sheet. However, thereafter, the chargesheet was filed and respondent No.3 had been

permitted by the Coordinate Bench of this Court to approach the competent Court after filing of the chargesheet. The subsequent bail application was therefore considered in the changed circumstances and on the material then available before the Court. The grant of bail cannot be interfered with merely because bail had earlier been refused.

7. At this juncture, the observations made by the Hon'ble Supreme Court in case of ***Dolat Ram & Ors. Vs. State of Haryana***, reported in ***1995(1) SCC 349***, is required to be recollected. It was observed therein that very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail already granted. The grounds for cancellation of bail though are broad, but illustrative and not exhaustive; are interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The bail once granted, should not in a mechanical manner, without any grounds, or supervening circumstance, which affects the very principle of fair trial be cancelled.

8. Having considered the entire material, this Court finds that the applicant has not shown any misuse of liberty by respondent Nos.2 and 3 or any subsequent circumstance

which requires cancellation of their bail. The grounds urged by the applicant essentially seek reconsideration of the impugned order by which bail was granted. That by itself is not sufficient for cancellation of bail.

9. Accordingly, the present applications are **rejected**. Rule is discharged.

(SANJEEV J.THAKER,J)

SRILATHA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: SRILATHA VENKATARAO UPADHYAYULA(HC00185), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 14/09/2026 15:32:56