State Of Rajasthan vs Indraj Singh And Etc on 7 March, 2025

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Bench: Sanjay Karol

2025 INSC 341 NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S)……..OF 2025
(Arising out of S.L.P.(Crl.) Nos.16156-16157/2024)

THE STATE OF RAJASTHAN … APPELLANT(S)

VERSUS

INDRAJ SINGH ETC. …RESPONDENT(S)

JUDGMENT

SANJAY KAROL, J.

Leave granted.

2. These appeals question the correctness of the final judgment and order dated 8th May 2024 passed by the High Court of Judicature at Rajasthan (Bench at Jaipur), in S.B. Criminal Miscellaneous Bail Application Nos.3348/2024 and 4789/2024 titled Indraj Singh v. State of Rajasthan and Salman Khan v.

State of Rajasthan, respectively. The State is aggrieved by the order of the High Court granting bail to the above named accused Date: 2025.03.07 18:03:27 IST Reason:

in connection with FIR No.009 dated 28th February 2024 at PS-

Special Police Station (SOG) District – ATS or MOG under Sections 419, 420, 467, 468 and 120B of Indian Penal Code, 1860 and Sections 3 and 10 of the Rajasthan Public Examination (Prevention of Unfair Means) Act, 2022.

3. The facts lie in a narrow compass. Per the First Information Report, it is alleged that the Respondent (Indraj Singh) had compromised the sanctity of a public recruitment examination conducted by the Government, i.e., Assistant Engineer Civil (Autonomous Governance Department) Competitive Examination-2022. Another candidate had allegedly appeared as a "dummy candidate" in place of respondent Indraj Singh. The attendance sheet was allegedly tampered with, and another person's photograph was affixed to the original admit card. The police commenced investigation and recorded statement of the complainant, Mr. Ravi Kumar Vaishnav, Section Officer, Rajasthan Public Service Commission, and obtained relevant documents, such as OMR sheet and the original admit card, allegedly used by the respondent Indraj Singh and the respondent Salman Khan. The former was arrested on 1st March 2024 and the latter was arrested on the next day, 2nd March, 2024. Respondent Salman Khan caused recovery under Section 27 of the Indian Evidence Act, 1872, of a cheque of Rs.10 lakhs on the head of Yes Bank, Mandawa Branch, Rajasthan, given by the respondent Indraj Singh to him.

4. Respondent Indraj Singh filed Bail Application No.83/24 before the Court of Additional Sessions Judge, Jaipur, Metropolitan II, which was disposed of vide order dated 13th March, 2024 and the ultimate relief was denied. It was observed that the actions of the respondent were disruptive to the system established by law, causing significant harm to the Government, administration, department and the candidates participating in the examination. Therefore, in view of the seriousness of the allegations, bail was rejected.

5. Respondent Salman Khan filed Bail Application No. 114/24 in connection with the above incident before the Court of Additional Sessions Judge, Jaipur, Metropolitan II, which was disposed of in the negative by order dated 4th April 2024. The reasoning adopted therefor was that respondent Salman Khan, along with other co-accused persons, had engaged in a criminal conspiracy with the end of financial gain by arranging for a dummy candidate to take the exam for another person. It was also observed that there was evidence of financial transactions between respondent-Salman Khan and respondent-Indraj Singh.

Both respondents have been collectively referred to, by this Court as respondent-accused.

6. Aggrieved by such denial of bail, both respondents knocked on the doors of the High Court. Vide the common impugned judgment, their prayers for bail were accepted. Such a conclusion favouring the accused was premised on the following grounds:-

> 1. No person had received any appointments to the position for which the exam had been held;
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> 2. There was no conclusive evidence on record to show that respondent Indraj Singh had made respondent Salman Khan appear as a dummy candidate;
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> 3. Both respondents do not possess any criminal antecedents, and the investigation has been completed;

4. Custody underwent is approximately two months.

7. We have heard Mr. Shiv Mangal Sharma, learned Additional Advocate General for the State, and the learned senior counsel, Mr. Ashwini Kumar Singh and Mr. Sanjay R. Hegde for the respondents, respectively.

8. The appellant-State wants this Court to set aside the impugned order of the High Court, and send the respondents back behind bars, leaving them to await the filing of chargesheet and the outcome of the trial. At this stage, therefore, let us consider the parameters set out by various pronouncements of this Court pertaining to setting aside of an order of bail.

8.1 At the outset, it is important to note that there exists a difference between setting aside an order of bail and cancellation of bail. Recently, in Ansar Ahmad v. State of U.P.1, a Bench of Justice Surya Kant and Justice J.B Pardiwala observed as under:-

> 2023 SCC OnLine SC 974 "16. We are not at all impressed by the aforesaid submission of Mr. Basant as it is well settled position of law that cancellation of bail is not limited to the occurrence of any supervening circumstances. In Ash Mohammad v. Shivraj Singh @ Lalla Babu, (2012) 9 SCC 446, this Court has observed that there is no defined universal rule that applies in every single case. Hence, it is not the law that once bail is granted to the accused, it can only be cancelled on the ground of likelihood of an abuse of bail. The Court before whom the order of grant of bail is challenged is empowered to critically analyse the soundness of the bail order. The Court must be wary of a plea for cancellation of bail order vs. a plea challenging the order for grant of bail. Although on the face of it, both situations seem to be the same yet, the grounds of contention for both are completely different. Let's understand the different conditions in both the situations.
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> 17. In an application for cancellation of bail, the court ordinarily looks for supervening circumstances as discussed above. Whereas in an application challenging the order for grant of bail, the ground of contention is with the very order of the Court. The illegality of due process is questioned on account of improper or arbitrary exercise of discretion by the court while granting bail. So, the crux of the matter is that once bail is granted, the person aggrieved with such order can approach the competent court to quash the decision of grant of bail if there is any illegality in the order, or can apply for cancellation of bail if there is no illegality in the order but a question of misuse of bail by the accused.

In Puran v. Rambilas, (2001) 6 SCC 338, this Court has observed, "The concept of setting aside as unjustified, illegal or perverse order is totally different from the cancelling an order of bail on the ground that the accused had misconducted himself, are because of some supervening circumstances warranting such cancellation" 8.2 In Mahipal v. Rajesh Kumar2, this Court held as follows:-

> "11. Essentially, this Court is required to analyse whether there was a valid exercise of the power (2020) 2 SCC 118 conferred by Section 439 CrPC to grant bail. The power to grant bail under Section 439 is of a wide amplitude.

But it is well settled that though the grant of bail involves the exercise of the discretionary power of the court, it has to be exercised in a judicious manner and not as a matter of course. In Ram Govind Upadhyay v. Sudarshan Singh [Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598 : 2002 SCC (Cri) 688] , Umesh Banerjee, J. speaking for a two- Judge Bench of this Court, laid down the factors that must guide the exercise of the power to grant bail in the following terms : (SCC p. 602, paras 3-4) "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. ... 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...

12. The determination of whether a case is fit for the grant of bail involves the balancing of numerous factors, among which the nature of the offence, the severity of the punishment and a prima facie view of the involvement of the accused are important. No straitjacket formula exists for courts to assess an application for the grant or rejection of bail. At the stage of assessing whether a case is fit for the grant of bail, the court is not required to enter into a detailed analysis of the evidence on record to establish beyond reasonable doubt the commission of the crime by the accused. That is a matter for trial. However, the Court is required to examine whether there is a prima facie or reasonable ground to believe that the accused had committed the offence and on a balance of the considerations involved, the continued custody of the accused subserves the purpose of the criminal justice system. Where bail has been granted by a lower court, an appellate court must be slow to interfere and ought to be guided by the principles set out for the exercise of the power to set aside bail." 8.3 The discussion made in Ajwar v. Waseem3 by a coordinate Bench of this Court (which included one of us, i.e., Amanullah J.) is on point. The relevant paragraphs are as under:-

> "Relevant parameters for granting bail
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> 26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail.

[Refer : Chaman Lal v. State of U.P. [Chaman Lal v. State of U.P., (2004) 7 SCC 525 : 2004 SCC (Cri) 1974] ; Kalyan Chandra Sarkar v. Rajesh Ranjan [Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528 : 2004 SCC (Cri) 1977] ; Masroor v. State of U.P. [Masroor v. State of U.P., (2009) 14 SCC 286 : (2010) 1 SCC (Cri) 1368] ; Prasanta Kumar Sarkar v. Ashis Chatterjee [Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 :

> (2011) 3 SCC (Cri) 765] ; Neeru Yadav v. State of U.P. [Neeru Yadav v. State of U.P., (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527] ; Anil Kumar Yadav v. State (NCT of Delhi) [Anil Kumar Yadav v. State (NCT of Delhi), (2018) 12 SCC 129 : (2018) 3 SCC (Cri) 425] ; Mahipal v. Rajesh Kumar [Mahipal v. Rajesh Kumar, (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558] .]
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> 27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, (2024) 10 SCC 768 an unreasoned or perverse order of bail is always open to interference by the superior court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail.

Bail can also be revoked by a superior court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on the society resulting in such an order. In P v. State of M.P. [P v. State of M.P., (2022) 15 SCC 211] decided by a three-Judge Bench of this Court [authored by one of us (Hima Kohli, J.)] has spelt out the considerations that must weigh with the Court for interfering in an order granting bail to an accused under Section 439(1)CrPC in the following words : (SCC p. 224, para 24) “24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [Dolat Ram v. State of Haryana, (1995) 1 SCC 349 :

> 1995 SCC (Cri) 237] . To put it differently, in ordinary circumstances, this Court would be loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court.” Considerations for setting aside bail orders
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> 28. The considerations that weigh with the appellate court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner. We may add that this list is only illustrative and not exhaustive. However, the court must be cautious that at the stage of granting bail, only a prima facie case needs to be examined and detailed reasons relating to the

merits of the case that may cause prejudice to the accused, ought to be avoided. Suffice it is to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused." 8.4 A recent judgment of this Court in Shabeen Ahmad v. State of U.P4 from the pen of Vikram Nath J., referred to the above paragraphs of Ajwar (supra) in cancelling the bail granted to certain accused persons in connection with alleged offences under Sections 498A, 304B, Indian Penal Code, 1860 and Sections 3 & 4 of the Dowry Prohibition Act, 1961.

9. Keeping in view the above pronouncements of law, we are of the view that the Trial Court had been correct in denying bail to the respondents herein. Considerations by the High Court of lack of criminal antecedents and the period of custody are perfectly valid criteria for grant of bail, but the Court while giving due credence to them, cannot lose sight of the primary offence and its effect on society.

10. In India, the reality is that there are far more takers of Government jobs than there are jobs available. Be that as it may, each job which has a clearly delineated entry process - with prescribed examination and/or interview process, has only to be filled in accordance thereof. Absolute scrupulousness in the process being followed instills and further rejuvenates the faith of the public in the fact that those who are truly deserving of the positions, are the ones who have deservedly been installed to Criminal Appeal No. 1051 of 2025 such positions. Each act, such as the one allegedly committed by the respondents represent possible chinks in the faith of the people in the public administration and the executive.

11. Since surely there must have been thousands of people who appeared for the exam, and the respondent-accused persons, for their own benefit, tried to compromise the sanctity of the exam, possibly affecting so many of those who would have put in earnest effort to appear in the exam in the hopes of securing a job, we concur with the view of the Trial Court that they are not entitled to the benefit of bail. At the same time, it is also true that every person has a presumption of innocence working in their favour till and such time the offence they are charged with, stands proved beyond reasonable doubt. Let them stand trial, and let it be established by the process of law, that the respondent - accused have indeed not committed any crime in law.

12. We are conscious of the fact that bail once granted is not to be set aside ordinarily, and we wholeheartedly endorse this view. The view taken hereinabove, however, has been taken keeping in view the overall impact of the alleged acts of the respondent-accused and its effect on society.

13. We clarify that the above observations are only for the purpose of examining the proprietary of grant of bail and should not be construed as remarks on the merits of the matter.

14. The appeals by the appellant - State, consequent to the above discussion, are allowed. The impugned judgment with particulars as referred to, in paragraph one, are quashed and set aside. Let the respondent-accused surrender before the concerned Court in two weeks from today. With the trial in progress, it shall be open for the accused to apply afresh, for bail, before the appropriate Court, after examination of material witnesses, to be decided on its own merits accounting for all attending facts.

Pending applications, if any, shall stand closed.

.....J. (SANJAY KAROL) .....J. (AHSANUDDIN AMANULLAH) New Delhi;

March 7, 2025.