

## State vs Mohd. Danish & Anr on 22 February, 2017

**Author: Sandeep Mehta**

**Bench: Sandeep Mehta**

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR  
S.B.Crlminl Bail Cancell No. 29 / 2016  
State of Rajasthan

----Petitioner

Versus

Mohd. Danish & Anr.

----Respondents

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For Petitioner(s) : Mr.Pankaj Awasthi, P.P.  
For Respondent(s) : Mr.K.S.Lodha.

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HON'BLE MR. JUSTICE SANDEEP MEHTA

Judgment / Order 22/02/2017 The instant application for cancellation of bail has been registered suo moto on the directions given by this Court on 6.7.2016 while considering the application for bail preferred on behalf of the co-accused Saddam Khan @ Kadda Khan.

This Court whilst taking suo moto cognizance of the matter, considered the fact that Mohd.Danish and Sabbir Mohd. @ Sabbu were released on bail by the trial Court even though, they were identified by the witness whereas, the bail of Saddam Khan was rejected.

Shri Kartik Lodha, learned counsel for the respondents points out that the reason for rejection of Saddam Khan's bail application is manifest from the rejection order dated 3.6.2016 wherein, it is clearly mentioned that Saddam Khan was involved in 14 more cases a few of which, are registered for offences of looting and dacoity. He further points out that the Additional Sessions Court while deciding Saddam's bail application was conscious of the distinction in the cases of respondents herein and Saddam Khan. He thus urges that it is not a fit case calling for exercise of suo moto powers under Section 439(2) Cr.P.C. so as to cancel the bail granted to the respondents and prays that the suo moto proceedings initiated by this Court for cancellation of bail granted to the respondents may be dropped.

Learned Public Prosecutor urged that the bail granted to the respondents should be cancelled.

Having considered the arguments advanced by the learned counsel for the parties and after going through the material available on record, this Court is of the firm opinion that the criminal antecedents of the accused are definitely relevant while considering a prayer for bail. Saddam Khan was involved in no less than 14 cases a few of which, involved offences of robbery and dacoity.

In this background, the distinction drawn by the trial Court while rejecting the bail application of Saddam Khan between the case of Saddam Khan and the respondents herein is justified. There is no allegation of the prosecution that the respondents have misused the liberty of bail granted to them.

Thus, the suo moto proceedings for cancellation of bail initiated under this Court's order dated 6.7.2016 passed in S.B.Criminal Misc. Bail Application No.5876/2016 against the respondent Mohd.Danish and Sabbir Mohd. @ Sabbu are hereby dropped. Rule is discharged.

(SANDEEP MEHTA)J. /tarun/