

The State of Karnataka **...APPELLANT**

VERSUS

Vinay Rajashekharappa Kulkarni **...RESPONDENT**

1. Leave granted.
2. By way of the instant appeal, the State of Karnataka through the Central Bureau of Investigation (the “CBI”) has sought to assail the correctness of the order dated 25.04.2025 passed by the Learned LXXXI Addl. City Civil & Sessions Judge, Bengaluru (CCH-82) (the “Trial Court”) in Spl. C.C. No. 565 of 2021 (the “Impugned Order”) in relation to CBI’s

application filed under Section 439(2) of the Code of Criminal Procedure, 1973 (the “CrPC”) read with Section 483(3) of the Bharitya Nagarik Surakha Sanhita, 2023 (the “BNSS”) seeking cancellation of bail granted to (i) Chandrashekhar Indi @ Chandu Mama; and (ii) the Respondent herein (the “Subject Application”).

3. Vide the Impugned Order, the Learned Trial Court partly allowed the CBI’s application seeking cancellation of bail insofar as Accused No. 16 i.e., Chandrashekhar Indi @ Chandu Mama is concerned. However, insofar as Accused No. 15 i.e., the Respondent herein is concerned, the Learned Trial Court declined to interfere on grounds of maintainability in view of the fact that the bail granted to the Respondent herein emanated from an order of this Hon’ble Court.

4. Shorn of unnecessary detail(s) - the underlying FIR bearing number 135 of 2016 came to be registered at PS Dharwad Sub-Urban under Section 302 / 143 / 147 / 148 / 120B of the Indian Penal Code, 1860 (the “IPC”) against unknown person(s) - pursuant to a complaint filed by one Smt. Mallavva alleging inter alia that her husband i.e., Yogesh Goudar, Member of the Zilla Panchayat, Dharawad (the “Deceased”) had been killed outside his gym in an act of political rage. Subsequently, a chargesheet came to be filed against 6 (six) persons on 09.09.2016.

Thereafter, upon committal, S.C. No. 50 of 2017 came to be registered pursuant to which the trial commenced and substantially progressed.

5. On 06.09.2019, the Appellant State accorded sanction to the CBI to conduct further investigation under Section 6 of the Delhi Special Police Establishment Act, 1946. Accordingly, on 24.09.2019, the CBI re-registered FIR No. 135 of 2016 as R.C. No. 17(S)/2019/CBI/ACB/BLR (the “Subject FIR”). Pursuant to the investigation undertaken by the CBI, 3 (three) supplementary chargesheet(s) came to be filed arraigning 15 (fifteen) additional accused person(s) including inter-alia the Respondent herein. In the interregnum the Respondent was arrested by the CBI in connection with the Subject FIR on 05.11.2020.

6. Pertinently, on 20.09.2020 the CBI filed a private complaint under Section 200 read with Section 195A of the CrPC before the Learned JMFC, Dharwad against the Respondent and 7 (seven) other person(s) alleging the commission of offence(s) under Section 195A of the IPC.

7. In these circumstances, the Respondent preferred an application seeking bail in connection with the Subject FIR before the Learned Trial Court. However, the same came to be dismissed by the Learned Trial Court in 2021. Subsequently the Hon’ble High Court vide an order dated 24.05.2021 in Criminal

Petition No. 2601 of 2021 rejected the Respondents' plea for the grant of bail.

8. The Respondent approached this Court seeking the grant of bail in connection with the Subject FIR vide SLP (Crl) No. 4739 of 2021 (subsequently converted into Crl. Appeal No. 807 of 2021). Vide an order dated 11.08.2021, this Court issued certain direction(s) which included enlarging the Respondent on bail. The operative paragraph is reproduced as under:

“Considering the facts and circumstances on record, we deem it appropriate to pass the following directions:

I. The appellant shall be produced before the concerned Trial Court within three days from today and the Trial Court shall release the appellant on bail on such conditions as the Trial Court may deem appropriate to impose. Such conditions shall however include the following:

i. The appellant shall not in any way impede the conduct and proceedings of the investigation and the trial;

ii. The appellant shall not directly or indirectly get in touch with any of the witnesses nor shall he try to influence any such witnesses.

iii. The appellant shall not enter the District Dharwad till further orders to be passed by the Trial Court.

iv. The appellant shall mark his presence in the office of ACP CBI Unit, Bengaluru, twice a week.

II. Any infraction or violation of the above conditions shall entail in cancellation of bail.

Needless to say that grant of bail in favour of the appellant shall not be construed as reflection by this Court on merits of the matter, which shall be gone into independently by the Trial Court at every stage of the proceedings.

With the aforesaid directions, the appeal is allowed.”

9. Vide an order 13.08.2021, the Learned Trial Court directed the release of the Respondent imposing inter alia the condition(s) enumerated by this Hon’ble Court.

10. In December, 2024 the CBI filed the Subject Application before the Learned Trial Court i.e., an application seeking cancellation of bail granted to Accused No. 16 i.e., Chandrashekhar Indi @ Chandu Mama; and Accused No. 15 i.e., the Respondent herein, alleging inter alia that the abovementioned accused person(s) attempted to contact CW-56; and CW-57 through their friends and known persons to depose against the prosecution on 05.10.2024. Moreover, it was alleged that other accused person(s) who turned approver was also contacted through friends and known person(s) to depose against the prosecution on 15.11.2024.

11. The Respondent herein furnished his reply dated 06.01.2025 before the Learned Trial Court in relation to the Subject Application. Thereafter, vide the Impugned Order, the Learned Trial Court whilst allowing the Subject Application in respect of Accused No. 16 i.e., Chandrashekhar Indi @ Chandu Mama, refrained from entertaining the same vis-à-vis the Respondent herein on grounds of propriety and maintainability. The relevant paragraphs are reproduced below:

“20. At the inception firstly the court is required to consider the maintainability of the application filed by the prosecution seeking for cancellation of bail of accused No.15 Vinay Rajashekarappa Kulkarni. Admittedly in the above case A15- Vinay Rajashekarappa Kulkarni was admitted to bail by Hon’ble Apex Court. During the course of arguments, the learned Senior Counsel Sri C.V.Nagesh on behalf of the advocate for accused No.15 has taken this court through the kind order passed by the Hon’ble Apex Court granting bail to accused No.15. It has been argued by the learned Senior Counsel that the bail was granted in Special Leave Petition and also by invoking the provision of Sec.439 of Cr.P.C. It is his submission that the order which was passed by the Hon’ble Apex Court would be the law of the land and it does not give any scope for this court to cancel the bail granted by the Superior Courts. In order to justify his arguments, he has pointed out to the conditions which were being imposed by the Hon’ble Apex Court. He has pointed out that the Hon’ble Apex Court though had granted liberty to this court to impose conditions, it

had also imposed 4 conditions which are already mentioned supra. By pointing out the same, he has submitted that no scope is provided for this court to consider the application seeking for cancellation of bail.

21. I have bestowed my anxious reading to the same and as noticed from the records the accused No.15 was admitted to bail by the kind orders of Hon'ble Apex Court. At the cost of repetition, the order of Hon'ble Apex Court is once again appreciated wherein the same was granted in SLP (Crl) No.4739/2021. While considering the said application the Hon'ble Apex Court has observed that accused No.15 was taken into custody on 5.11.2020 and from that day he was in custody. By considering the facts and circumstances, Hon'ble Apex Court had admitted him to bail with direction to the trial court to impose any appropriate conditions, however, the conditions were to include:

“I. The appellant shall be produced before the concerned Trial Court within three days from today and the Trial Court shall release the appellant on bail on such conditions as the Trial Court may deem appropriate to impose. Such conditions shall however include the following:

- i. The appellant shall not in any way impede the conduct and proceedings of the investigation and the trial;*
- ii. The appellant shall not directly or indirectly get in touch with any of*

the witnesses nor shall he try to influence any such witnesses.

iii. The appellant shall not enter the District Dharwad till further orders to be passed by the Trial Court.

iv. The appellant shall mark his presence in the office of ACP CBI Unit, Bengaluru, twice a week.

II. Any infraction or violation of the above conditions shall entail in cancellation of bail”

By considering the same, it is apparently clear that accused No.15 was admitted by the Hon'ble Apex Court and as such the submissions of the learned Senior Counsel Sri C.V.Nagesh deserves to be accepted. Though the learned Spl. Public Prosecutor has argued that the Hon'ble Apex Court has also observed that any infraction or violation would entail for cancellation of bail, it is relevant to note that when an order is granted by the Superior Courts, the inferior courts cannot pass any order contrary to the orders passed by the superior courts which is considered as Highest Court of Law in the Country. As rightly argued by the learned Senior Counsel the order of granting bail was passed by the Hon'ble Apex court and hence this court doesn't even have jurisdiction to consider the cancelation albeit modification of conditions which are imposed by the Hon'ble Apex court. Under the circumstances, the question of maintainability raised by the learned Senior Counsel respect of application filed by prosecution seeking

cancellation of bail of accused No.15, holds good and hence Point No.1 is answered in Negative”

12. In these circumstances, the Appellant State through the CBI preferred the underlying Special Leave Petition i.e., SLP (Crl) No. 7865 of 2025.

13. Shri S.V. Raju, Learned Additional Solicitor General of India has vehemently contended before this Court that Accused No. 16 and the Respondent tried to wield his influence; and attempted to contact and influence prosecution witnesses more particularly identified as CW-56 (Nagappa Bairagonde); and CW-57 (Suresh Jagdev Hulle). Furthermore, it was submitted that Accused No. 17 i.e., Shivanand Shreshail Biradar who was pardoned and turned approver, was also contacted by Accused No. 16 and the Respondent through friend(s) and known person(s) to depose against the prosecution on 15.11.2024, resultantly, Accused No. 17 retracted from his statement recorded under Section 164(1) of the CrPC. In this regard, Mr. Raju placed reliance on certain CDRs, CCTV footage; and photograph(s) to make good his submission(s). Finally, Mr. Raju contended that the Learned Trial Court erred in law by rejecting the CBI's application on the ground of maintainability in view of the law laid down by this Court in ***Gurcharan Singh v. State (Delhi Admn.)*, AIR 1978 SC 179.**

14. On the other hand, Mr. Maninder Singh, Learned Senior Counsel appearing on behalf of the Respondent has opposed the prayer for cancellation of bail contending inter alia that no condition(s) imposed upon the Respondent have been violated. In this regard, he submits that the Respondent is a responsible lawmaker who has never meddled with the administration of justice.

15. We have carefully considered the contention(s) raised by the Learned Senior Counsel(s) appearing on behalf of the Parties; and perused the record.

16. In the present case, the Learned Trial Court took a view that it does not have the jurisdiction to consider the CBI's application seeking cancellation of regular bail under Section 439(2) of the CrPC read with Section 483(3) of the BNSS, 2023 in view of the fact that the Respondent was granted regular bail by a coordinate bench of this Court.

17. The aforesaid position taken by the Learned Trial Court is not in consonance with the decision of this Court in Gurcharan Singh (Supra). More so in view of the fact that this Court directed the Respondent to be enlarged on regular bail on such conditions as the Learned Trial Court deemed appropriate, albeit illustratively listing down certain condition. In this context, the Learned Trial Court i.e., being a Court of Sessions was entitled

to entertain an application under Section 439(2) of the CrPC (now 483(3) of the BNSS) seeking cancellation of bail on the grounds of violation of bail conditions imposed by it; notwithstanding the fact that bail was granted by a Constitutional Court.

18. Having had given our anxious consideration to the rival contentions, we deem it appropriate to consciously refrain from making detailed observation(s) in respect of the allegation(s) levelled by the CBI against the Respondent in view of the fact that the underlying trial is ongoing. Be that as it may, it would be suffice to state that there is sufficient material on record to suggest that the attempt(s) have been made by the Respondent to either contact witnesses or alternatively, influence such witnesses.

19. Therefore, keeping in mind the totality of circumstances, this Court is of the considered opinion that the bail granted to the Respondent ought to be cancelled. Consequently, the bail granted to Accused No. 15 i.e., the Respondent is hereby cancelled. The Respondent shall surrender before the concerned trial court / jail authority within a period of 1 (one) week from today. However, we deem it appropriate to direct the Learned Trial Court to make endeavours to conclude the trial expeditiously, without being influenced by any of our observation(s).

20. It is made clear that the observations made in the present order are confined to the Appellant's plea seeking cancellation of bail granted to the Respondent herein. This Court has not commented on any other aspect of this case.

21. The appeal is allowed and the pending applications, if any, also stand disposed of.

.....J.
[SANJAY KAROL]

.....J.
[SATISH CHANDRA SHARMA]

NEW DELHI
June 06, 2025.