Andreza

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO. 31 OF 2025

Union of India, Narcotics Control Bureau Sub Zone, Goa Through Sub Inspector, Mr. Abhishek Choudhary ... Applicant

V e r s u s.

Clifford D'Souza, Age 42 years, permanent residents of H.No. 436, near river side wine store, Asvem, Mandrem, North Goa, 403527 ...Respondent

Mr. Pravin Faldessai, Deputy Solicitor General of India *for the Petitioner.*

CORAM: ASHWIN D. BHOBE, J

DATED: 19th OCTOBER 2026

Oral Order:-

1. Heard, Mr. Pravin Faldessai, learned Deputy Solicitor General of India, for the Petitioner-State.

2. By this Petition filed under Article 227 of the Constitution of India, the Petitioner assails the Order dated 11.10.2023 passed by the Sessions Judge, North Goa, at Panaji ("Trial Court"), in Bail Application No. 183 of 2023, which granted bail to the Respondent ("impugned Order").

3. The material facts relevant to this Petition are that Respondent-Accused No. 3 in Crime No. 02 of 2023, registered with the Narcotic Control Bureau, was arrested in respect of offences

punishable under Section 8(c) read with Sections 20(b)(ii)(A), 22(C), 27 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act"). The Respondent filed Bail Application No. 183 of 2023 before the Trial Court.

4. After hearing the parties, the Trial Court, vide impugned Order, allowed Bail Application No. 183 of 2023 and granted bail on the conditions recorded therein.

5. The records show that this Writ Petition was filed on 10.05.2023.

6. Mr. Pravin Faldessai, Deputy Solicitor General of India, submits that the challenge to the impugned Order, as set out in the grounds in paragraphs 4(a) to (m) of this petition, is that it is erroneous and fails to appreciate the material on record showing that the offence is serious. The Trial Court did not consider the possibility of a threat to the witness or of the Respondent tampering with evidence. The impugned Order is technical and was passed in a mechanical manner.

7. Mr. Pravin Faldessai, Deputy Solicitor General of India, on instructions from the Investigating Officer, fairly submits that the trial in Special Case No. (NDPS) 66 of 2023 before the Trial Court is ongoing and that the Respondent is appearing in those proceedings.

8. From the submissions of Mr. Pravin Faldessai, Deputy Solicitor General of India, the point for consideration in this Petition is

whether the impugned Order is illegal and perverse, or whether it is based on irrelevant material, warranting the cancellation of the bail granted to the Respondent?

9. Perused the records.

10. The records in the file of this Petition show that the prosecution case is that the co-accused (Andrey Demin) in Crime No. 02 of 2023 was found in possession of contraband at the rented premises. The co-accused named the Respondent as the owner of the rented premises and stated that the Respondent was aware of the activities of the co-accused. The Respondent is implicated in Crime No. 02 of 2023 only because the Respondent owns the premises where the contraband was found.

11. The consideration of cancelling bail is distinct from that of granting bail. Rejection of bail stands on one footing, but cancellation of bail is a harsh order because it interferes with the individual's liberty and must be resorted to with due caution.

12. It is settled law that bail can be cancelled where: (i) the accused misuses his liberty by indulging in similar criminal activity; (ii) he interferes with the course of investigation; (iii) he attempts to tamper with evidence or witnesses; (iv) he threatens witnesses or engages in similar conduct that would hamper a smooth investigation; (v) there is a likelihood of his fleeing to another country; (vi) he attempts to make himself scarce by going underground or becoming unavailable

to the investigating agency or the trial; (vii) he attempts to place himself beyond the reach of his surety, etc. These grounds are illustrative and not exhaustive. (See ***Himanshu Sharma v. State of M.P.***[1]***, , Ajwar v. Waseem***[2]***, Kailash Kumar vs The State of Himachal Pradesh and Ors.,***[3] ***P v. State of M.P. & anr.***[4]***, Jagjeet Singh v. Ashish Mishra***[5] *and* ***Myakala Dharmarajam v. State of Telangana***[6]).

13. The impugned Order discloses that the Trial Court considered the nature of the accusations against the Respondent, the role ascribed to the Respondent and the gravity of the offence, evaluated the severity of the offence and exercised its jurisdiction to grant bail. I do not find any perversity or illegality in the impugned Order.

14. This Petition does not point out any supervening circumstance that has arisen, or any conduct by the Respondent after the impugned Order, to suggest that it is no longer conducive to a fair trial to permit the Respondent to retain the concession of bail during the trial.

15. Bearing in mind the above, noting that there are no allegations by the Petitioner that the Respondent has breached or violated any bail condition and further noting that the trial in Special Case No.

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1 (2024) 4 SCC 222

2 (2024) 10 SCC 768

3 CRIA 861 of 2025

4 (2022) 15 SCC 211

5 (2022) 9 SCC 321

6 (2020) 2 SCC 743

(NDPS) 66 of 2023 is progressing with the Respondent appearing in those proceedings, I find no reason to interfere with the impugned Order, which has been in force for almost three years as on date.

16. In view of the above, this Writ Petition is without merit, as such, dismissed.

17. No orders as to costs.

ASHWIN D. BHOBE, J.

Signed by: ANDREZA PEREIRA
Designation: Senior Private Secretary
to the Hon'ble Judge
Date: 21/10/2026 15:58:47