

IA No:- 12/2025
SC No:- 339/2025
STATE Vs. SARVESH ETC.
FIR No:- 790/2024
Police Station:- New Ashok Nagar

21.11.2025

Present:- Sh. Vineet Kumar, Ld. Addl. PP for the State.
Sh. Pradeep Teotia, Ld. Counsel for complainant.
Sh. Vinay Kumar Dubey, (through VC) and Sh.
Aryaman Tomer, Ld. Counsels for applicant/accused
through VC.

Vide this order, I shall dispose of the application under Section 483(3) of BNSS seeking cancellation of bail of accused Dharmender moved on behalf of complainant through Ld. Counsel.

Perusal of the record shows that charge-sheet in the present case was filed against present accused along with other co-accused persons for offences under Sections 110/ 115(2)/ 190/ 191(2)(3)/ 192/ 105/ 331(6)/ 333/ 332(C)/ 3(5)/ 61(2) of BNS and both the parties are reportedly relatives of each other. Present accused was reportedly granted bail by this Court vide order dated 29.07.2025 and no objection was made on behalf of complainant initially.

It is argued by Ld. Counsel for complainant that accused has misused the liberty granted to him as the accused called witness Ravi S/o Sh. Rohtash from an unknown number 9718555789 on 06.10.2025 and threatened him with dire

consequences if he gives testimony against him in the Court. It is argued that a complaint was lodged by witness Ravi on 06.10.2025 at Police Station New Ashok Nagar in this regard, but no action was taken. Thereafter, on 08.10.2025 at about 11:35 AM accused Dharmender came in his white swift car bearing no. DL7CU-3758 and called the office boy of witness Ravi and further threatened him by saying that he would kill witness Ravi whenever and wherever he finds him. It is prayed that conduct of accused is highly objectionable and amounts to abuse of process of law and thus, bail granted to him may be cancelled.

In response to the present application, it is submitted by Ld. Counsel for applicant/accused that it is well settled that there must be cogent and over-whelming circumstances to cancel the bail already granted in a particular case. It is further submitted that allegations made in the present application by complainant are completely false and baseless and accused had never influenced the complainant or any other witnesses in any manner and has not misused the liberty so granted to him.

It is argued that evidence in this is not yet started and matter is still pending consideration on the charge, as such, question of threatening witness to not give evidence does not even arise. It is further argued that there are multiple witnesses in this case and no other witness has complained of any threat given to him by the accused or his associates. It is further argued that there is a pending money dispute between accused Dharmender and witness Ravi with respect to some committee qua which both of

them had exchanged calls for past some time and call made on 06.10.2025 had nothing to do with pendency of present case. It is also argued that accused had recorded the audio conversation between him and witness Ravi on 06.10.2025, which has been duly examined by IO and which does not pertain to pendency of present case.

The position in law vis a vis cancellation of bail, has been expounded and reiterated by the Hon'ble Supreme Court in *Delhi Administration v. Sanjay Gandhi*, AIR 1978 SC 961 and in *Dolat Ram & Ors. v. State of Haryana* (1995) 1 SCC 349. Further, in case titled as *Charu Soneja v. State (NCT of Delhi) & Others* CrI. M.C. 2050/2021 dated 03.01.2022, Hon'ble High Court of Delhi was pleased to hold as under:-

“.... 17. There is a significant difference between an order rejecting an application for bail and an order for cancellation of bail. An order rejecting a plea for bail in non-bailable offences is in the discretionary domain of the Court and such a case can be decided without delving into details, it can be rejected simpliciter on the gravity of the offence and the perception that liberty, if granted, will be abused by the accused. Whereas in the case of cancellation, the Court is called upon to extinguish the liberty that has been formerly granted. A Court must tread with utmost circumspection, and only after an in-depth examination of the situation and new emergent facts and on finding supervening circumstances and overwhelming evidence that the accused has been abusing the liberty granted to him by the Court, should the Court then exercise its jurisdiction in seizing the liberty of an accused undertrial. Another reason for the Court to be more circumspect in setting aside an order granting bail is that, it involves review of a well-considered, reasoned judicial order granting bail. Personal liberty is one of the cherished constitutional freedoms. Once granted to an accused pending completion of the Trial, it must only be retracted in the face of grave and exacerbating circumstances. The party challenging bail

already given needs to demonstrate, by showing evidence and instances, that the person enlarged on bail has been threatening the victim and may consequently cause personal harm to the victim or her family, is tampering with evidence or influencing prosecution witnesses to the extent that it would vitiate the Trial and lead to a miscarriage of justice...”

Thus, it is clear that there is significant difference between an order rejecting an application for bail and an order for cancellation of bail and it is only in exceptional circumstances and production of overwhelming evidence that this power is to be exercised. Once bail is granted to an accused, it could only be retracted in the face of grave and exacerbating circumstances.

A report is filed by the IO pursuant to complaint made by the complainant wherein it is fairly conceded that as per CDR record of both witness Ravi and accused Dharmender, a call was made by accused Dharmender to witness Ravi on 06.10.2025 and that total 20 calls were found exchanged between both of them prior to the said date. It is further reported that some money dispute between both of them qua committee of sum of Rs.7,00,000/- was pending and on examination of audio conversation given by accused, it was found that present accused Dharmender made call to witness Ravi in respect of said transaction. Moreover, besides the statement of office boy of witness Ravi, there is no other independent or credible material on record to suggest that accused extended threats to him for not giving evidence in respect of present case.

Suffice it to state, both witness Ravi and accused

Dharmender admittedly have a pending money dispute with respect to some committee qua which both of them have been exchanging calls for past some time which fact is not disclosed by the complainant in the present application. Thus, the possibility of accused making call to witness Ravi and visiting his office on 08.10.2025 with respect to said money transaction cannot be ruled out.

Considering the totality of circumstances, report furnished by the IO and settled law that regular bail can only be cancelled in exceptional circumstances and production of overwhelming evidence, this Court is not inclined to cancel the bail of accused Dharmender at this stage. **Hence, the present application for cancellation of bail is dismissed.**

Copy of order be given 'dasti'.

(Akash Jain)
ASJ-04, East District
KKD Courts, Delhi: 21.11.2025
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