

IN THE COURT OF ADDITIONAL SESSIONS JUDGE SAMBA

Case No. 105/2026

CNR No.JKSB010005002026

D.O.I.01.06.2026

Ram Dass Thapa S/o Sh Isher Dass R/o W No. 5, Tehsil Vijaypur and
District Samba

Vs.

1. Joginder Kumar S/o Sh Jodh Singh
R/o Kunjwani Talab Jammu
2. Gushan Singh S/o Lt Sh Swaran Lal
R/o Kunjwani Talab Jammu
3. Jagdish Raj Verma S/o Lt Sh Kesar Ram
R/o Vill Gudwal Tehsil Vijaypur District Samba

In the matter of: Application for cancellation of bail on the ground of
concealment of material facts.

Sh. Shashi Bhushan Thapa, Advocate for Complainant

Sh. Raman Chalotra, Advocate for Accused

Coram : Arvind Sharma

JO Code : JK00123

ORDER

19.08.2026

1. The cancellation of bail has been sought by the complainant being
aggrieved of erroneous disclosure of extent of land disclosed in the bail

application on the ground the actual facts stood not disclosed by the accused.

2. The bail stood granted in FIR no. 54/2026 of Police Station Vijaypur under sections 61, 3(5), 318, 335, 336 & 338 BNS 2023 vide order dated 06.05.2026 by this Court. In the said bail order instead of Kanal, word Marlas stood written while describing the land which is being question of dispute; as revealed from the record of bail called by this Court while hearing the application seeking cancellation of bail in hand.
3. However the reasons for granting bail do not reflect that if Kanal stood disclosed instead of Marla, the bail could not have been granted. The reasoning of bail application is that the Fard stood issued on the basis of record already been running in the revenue department at the time of issuance of Fard and if the actual position on spot is found different from the description of land given in the Fard which has been made basis of Sale Deed duly registered in favour of complainant, the same cannot be considered as sufficient ground for snatching liberty of accused without providing them the opportunity of “Fair Trial”
4. Therefore the ground raised that instead of actual suit land being reflected in Marlas instead of Kanal, the wrong facts stood projected before the Court, is found unjustifiable as the police report reveals in the bail application discloses actual dimensions of disputed land; and due to

typographical error instead of Kanal, Marlas has been reflected as the “Unit of Measurement” in the bail order.

5. No violation of any bail condition stood reported by prosecution and no information stood brought before this Court, either by investigating officer or by prosecution; that similar nature of offence stood allegedly been committed by the accused after the grant of bail by this Court.
6. The ground that the huge loss stood occurred to the complainant; who lodged the ‘FIR’ seeking indulgence of Court; cannot be considered as valid ground for cancellation of bail.
7. The recourse to civil remedy for seeking damages or compensation or recovery of amount on wrong disclosure is also available to the complainant for the loss accrued to the complainant who allegedly has purchased the suit land which was three kanal less than actual land described in the ‘Fard’ prepared on the basis of the documentary record available at revenue office. Herein no such material is brought on record that “Fard” stood prepared in contravention to documentary record. Rest all the allegations are being question of “disputed Facts” cannot be considered as true unless the same stood passed the test of “Trial”.
8. The general policy of law is to release the person from custody rather than prohibiting the same in consonance with Article 21 of Indian Constitution and following same in light of Article 11 of Universal

Declaration of Human Rights, bail particularly anticipatory bail is founded on the concept of presumption of innocence which continues to travel with accused/applicant till he is held guilty and interim bail in anticipation is granted for a short period before hearing anticipatory bail.

9. Mere prescribing of punishment more than seven years in interim bail; cannot be considered as valid ground to snatch the right of liberty of accused under the garb of cancellation. The order of grant absolute anticipatory bail stood passed in FIR no.54/2026 by disclosing all the sections and offence of forgery in particular which attracts the maximum punishment for ten years.
10. Therefore contention raised by the Learned Counsel of complainant that one of the allegations leveled in FIR no.54/2026 is 338 BNS which carries, punishment more than 10 years, makes the impugned bail order liable to be cancelled is ill-founded as the impugned order has resulted in granting absolute anticipatory bail in FIR no.54/2026 while discussing the offence of forgery (338 BNS) and also by referring all the sections alleged in the said FIR including 338 BNS; meaning thereby that the anticipatory bail stood granted in all offences alleged in FIR no.54/2026; irrespective of maximum punishment prescribes for those alleged offences. No new offence stood added in the FIR no.54/2026 and hence the contention raised with respect to same now does not require any

further deliberation. Therefore the grounds raised by the complainant found not sufficient for snatching the liberty of accused at this stage of investigation. Application in hand stands dismissed.

11. Since the error in disclosure of “Unit” for calculating dimensions of suit land, with respect to erroneous mentioning of “Marlas” instead of “Kanal” in bail order dated 06.05.2026 has been brought into the notice of this Court by way of application in hand; accordingly considering the same as being “Mere Numerical error”, the same is being corrected under section 403 of Bhartiye Nagrik Suraksha Sanhita (BNSS) and accordingly the “Unit of measurement of land” shall be read as ‘Kanal’ instead of ‘Marlas’ in bail order dated 06.05.2026.

12. The application seeking cancellation of bail of accused, stands accordingly dismissed and stands disposed of; which shall become part of main bail application after due completion for the purposes of becoming part of main challan as and when produced.

Announced
19.08.2026

Additional Sessions Judge
Samba