

HIGH COURT OF UTTARAKHAND AT NAINITAL

Bail Cancellation Application No.11 of 2024

Khoob Singh

.....Applicant

Versus

State of Uttarakhand and another

.....Respondents

Present:-

Mr. D.C.S. Rawat, Advocate for the applicant.

Mr. Virendra Singh Rawat, AGA for the State/respondent no.1.

Mr. Vikas Anand and Ms. Gyanmati Kushwaha, Advocates for respondent no.2.

Hon'ble Ravindra Maithani, J. (Oral)

The applicant seeks cancellation of bail granted to the respondent no.2 ("the accused") in FIR No.62 of 2024, under Sections 147, 307, 323, 354, 452, 504, 506 IPC, Police Station Kashipur, District Udham Singh Nagar ("the first FIR").

2. According to the first FIR, in which, the accused was granted bail, the co-accused Fardeen and Rauf wanted to forcibly remove the victim and took her on the motorcycle. The victim resisted to it. After a while, the co-accused Fardeen attacked the victim with a sharp edged weapon, due to which, she sustained injuries. The victim was saved by the persons, who had gathered at the spot. The FIR records that the accused Aakib and the other co-accused were exhorting the co-accused Fardeen to kill the victim.

3. The bail cancellation application has been moved on the ground that the accused was granted bail by this Court on 24.05.2024. Thereafter, on 25.05.2024, at about 11:30 p.m., when the applicant was asleep in his house, he heard the noise of beating of drums, etc.; when he peeped outside his house, he noticed that the accused along with the other persons were shouting religious

slogans, dancing and, thereafter, the accused Aakib threatened the applicant to compromise the case or else to face the dire consequences. The FIR No.253 of 2024, under Sections 195-A, 506 IPC was lodged by the applicant against the accused and others on 27.05.2024 at Police Station, Kashipur, District Udham Singh Nagar ("the second FIR").

4. According to the applicant, he was under tremendous threat as the accused is directly and indirectly threatening the witnesses to face the dire consequences if they adduce evidence against him. The accused Aakib has filed objections to it. According to it, with regard to taking a procession on 25.05.2024, police had earlier lodged an FIR on 27.05.2024, under Section 147, 188, 268, 290, 34 IPC against 12 persons, in which FIR, the accused was not named. According to the accused, he has been falsely implicated in the second FIR, lodged at Police Station Kashipur, District Udham Singh Nagar by the applicant. It is the case of the accused that the instant bail cancellation application has been filed on the basis of false and concocted facts.

5. Learned counsel for the applicant submits that after release on bail in the first FIR on 24.05.2024, the accused took out the procession and at the outside of the applicant, they shouted religious slogans, drums were beaten, they danced and, thereafter, the accused threatened the applicant to compromise the case or face dire consequences.

6. Heard learned counsel for the parties and perused the record.

7. It may be noted that the first FIR was lodged by the applicant on the ground that his daughter was attacked by the co-accused Fardeen and the accused Aakib and others, made exhortation at that stage to kill the daughter of the applicant. It is argued that the witnesses in the first FIR are under tremendous threat. Their life has become miserable because earlier also, in the year 2022, the accused Aakib and others had committed an offence, of which, FIR No.420 of 2022 (“the 2022 FIR”) was lodged at Police Station Kashipur, District Udham Singh Nagar.

8. Learned counsel for the accused submits that the 2022 FIR was falsely recorded against the accused and his family members. He submits that the applicant is a very powerful man; he has threatened the entire family of the accused; in the year 2022, in fact, the applicant and his family members had entered in the house of the accused; at that time the accused had sought the assistance of the Police Station, but they were not assisted by the police, therefore, an application under Section 156(3) of the Code of Criminal Procedure, 1973 (“the Code”) was filed then, which was treated as a complaint.

9. It is admitted that based on the 2022 FIR the trial is also pending against the accused and others.

10. Learned counsel for the accused submits that, in fact, police had earlier lodged the FIR No.252 of 2024 (“the third FIR”) on 27.05.2024 at 08:26 p.m. against 12 persons with regard to taking a procession without permission. He would submit that in the third FIR, the accused Aakib is not named. It is argued that post lodging

of the third FIR by the police, the applicant lodged second FIR, so as to further detain the accused, which is false. He submits that mere filing of an FIR may not be a ground to cancel the bail. He submits that even if the charge-sheet is filed, it is without any evidence.

11. Learned counsel for the applicant submits that in the second FIR lodged by the applicant, charge-sheet has already been filed and the accused Aakib has already been summoned to answer the accusation under Section 506 IPC.

12. Learned State Counsel submits that in the second FIR, police has investigated the matter and witnesses have supported the case of the applicant and charge-sheet has been filed, in which, cognizance had already been taken.

13. Personal liberty is one of the rights, which is constitutionally protected. A person may not be deprived of his liberty without procedure established by law. There are various principles which govern the field of grant of bail. The consideration for grant of bail and cancellation of bail are quite distinct.

14. In the case of Mehboob Dawood Shaikh Vs. State of Maharashtra, (2004)2 SCC 362, the Hon'ble Supreme Court observed that, **"It is, therefore, clear that when a person to whom bail has been granted either tries to interfere with the course of justice or attempts to tamper with evidence or witnesses or threatens witnesses or indulges in similar activities which would hamper smooth investigation or trial,**

bail granted can be cancelled. Rejection of bail stands on one footing, but cancellation of bail is a harsh order because it takes away the liberty of an individual granted and is not to be lightly resorted to.”

15. In the case of Shiv Mohan Kapoor Vs. State of Uttar Pradesh and others and connected matters, (2012)11 SCC 632, the Hon’ble Supreme Court has referred to the earlier judgments, in which, principles have been laid down for cancellation of bail and in para 21 and 22 the Hon’ble Supreme Court observed as follows:-

“21. In *State of U.P. v. Amarmani Tripathi* [(2005) 8 SCC 21 : 2005 SCC (Cri) 1960 (2)] the Hon'ble Apex Court has held in para 17 as under: (SCC p. 30)

“17. ... In an application for cancellation, conduct subsequent to release on bail and the supervening circumstances alone are relevant.”

22. In *Anil Kumar Tulsiyani v. State of U.P.* [(2006) 9 SCC 425 : (2006) 2 SCC (Cri) 565] the Hon'ble Apex Court has held in para 12 as under: (SCC p. 427)

“12. In the present case, admittedly, the respondent is an advocate. Being an advocate he is in a commanding position and standing in the society. Keeping in view his position in the background, a reasonable apprehension of the witnesses being tampered with or won over, coerced, threatened or intimidated by using his influence and position cannot be ruled out.”

16. In the case of X Vs. State of Telangana and another, (2018)16 SCC, 511 also the Hon’ble Supreme Court has discussed the principle of law on this aspect and observed as follows:-

14. In a consistent line of precedent this Court has emphasised the distinction between the rejection of bail in a non-bailable case at the initial stage and the cancellation of bail after it has been granted. In adverting to the distinction, a Bench of two learned Judges of this Court in *Dolat Ram v. State of Haryana* [Dolat

Ram v. State of Haryana, (1995) 1 SCC 349 : 1995 SCC (Cri) 237] observed that : (SCC pp. 350-51, para 4)

“4. Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. **Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are : interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail.** However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.”

(emphasis supplied)

17. Admittedly, in the year 2022 also, an FIR was lodged against the accused and others under Sections 323, 341, 452, 504, 506 IPC. The copy of the 2022 FIR is Annexure No.1 to the bail cancellation application. It has been argued on the behalf of the accused that, in fact, in the year 2022, it is the applicant and his family members, who attacked the accused and his family members, but the report of the accused Aakib's family was not lodged. But, a complaint is pending consideration against the applicant and his family members.

18. The first FIR is FIR No.62 of 2024, under Sections 147, 307, 323, 354, 452, 504, 506 IPC at Police Station Kashipur, District Udham Singh Nagar. According to it, the co-accused

Fardeen had attacked injured Pooja on her head. They wanted to forcibly take away Pooja with them on a motorcycle and Pooja did resist their attack. The FIR records that, in fact, the accused Aakib was also exhorting to kill the injured.

19. The Court had granted bail to the accused in the first FIR on 24.05.2024. After grant of bail to the accused Aakib, a procession was taken out in the locality with beating of drums, etc. and its video was circulated on the social media. Therefore, the police themselves had lodged the third FIR number 252 of 2024 at Police Station Kashipur, District Udham Singh Nagar against 12 persons and the perusal of the FIR reveals that the accused Aakib was not named in that FIR. But, on the same date, second FIR was lodged by applicant and it records that the accused Aakib along with some other persons took a procession in his locality beating drums and shouting religious slogans, dancing, singing and near the house of the applicant, the accused Aakib commanded the crowd to be silent and, thereafter, he threatened the applicant to compromise or to face dire consequences. In the second FIR, after investigation, it is stated that the charge-sheet has been filed on which cognizance has been taken against the accused. The cognizance order and charge-sheet have been tendered by the learned counsel for the applicant, at the time of hearing of the bail cancellation application. Let it be taken on record.

20. How far the second FIR goes? It shall fall for scrutiny during trial. But, before the applicant had lodged the second FIR against the accused Aakib and others on 27.05.2024, the police had already lodged the third FIR against 12 persons with regard to

taking a procession in the night, beating drums and circulating video on social media. The third FIR was lodged by the police on their own. It is, thereafter, the applicant had lodged the second FIR.

21. Bails once granted may not be lightly interfered on oral allegations only. Perhaps generally bail is not cancelled. But, in the instant matter, the things are different. The accused Aakib was granted bail on 24.05.2024 in the first FIR. On 25.05.2024, a procession was taken out in the city, of which, the third FIR was lodged by the police. On the same day i.e. 27.05.2024, the applicant lodged an FIR against the accused and others that it is the accused, who had threatened the applicant in a procession to compromise or to face the dire consequences. It definitely amounts to threatening the witnesses and interference with the course of justice and it was done post grant of bail. Under the facts and circumstances of the case, this Court is of the view that it is a ground to cancel the bail granted to the accused Aakib.

22. In view of the foregoing discussion, this Court is of the view that the bail cancellation application deserves to be allowed.

23. The bail cancellation application is allowed.

24. The bail granted to the accused Aakib on 24.05.2025 in FIR No.62 of 2024, under Sections 147, 307, 323, 354, 452, 504, 506 IPC, Police Station Kashipur, District Udham Singh Nagar is hereby cancelled.

25. Let the accused Aakib surrender in the concerned court within next three days. In case, he fails to do so, the Court

requests the court concerned to issue Non Bailable Warrants, so that the accused Aakib may be arrested and send to the judicial custody.

(Ravindra Maithani, J.)
22.04.2026

Sanjay

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KANOJIA

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