

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31556 of 2025

Arising Out of PS. Case No.-482 Year-2023 Thana- HARSIDHI District- East Champaran

Islam Miyan @ Md. Islam Miyan, aged about-66 years, S/o- Late Jainul
Miyan Village- Chadrahiya Ps- Harsidhi Dist- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Arshad @ Md. Arshad Alam S/o- Amrullah Miya Village- Chadrahiya
Ps- Harsidhi Dist- East Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Suraj Kumar Tiwari, Advocate

For the Opposite Party/s : Mr. Madan Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

9 21-11-2025 Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the Opposite Party
No.2.

2. The present application has been filed on behalf of
the petitioner/informant for cancellation of the bail of Opposite
Party No.2 who has been granted bail by this Court vide order
dated 17.05.2024 passed in Cr. Miscellaneous No.14330 of 2024
in connection with Session Trial No.462 of 2024 arising out of
Harsidhi P.S. Case No. 482 of 2023 dated 29.07.2023.

3. As per the prosecution case, all the persons named
in the FIR including the petitioner were holding weapons in
their hands, came at the door of the informant and started
abusing and when the informant raised objection, all the accused
persons assaulted the grandson of the informant by means of
lathi, iron-rod, fatta, due to which, he sustained serious injuries.



4. Learned counsel for the petitioner submits that on 05.07.2024 when the petitioner/informant was at his doorstep, then all the accused persons including the Opposite Party No.2 came at his door and started abusing the family members of the petitioner/informant who were charge-sheeted witnesses in this present case, i.e., Harsidhi P.S. Case No.482 of 2023, due to which, the accused's side assaulted the son and the brother of the petitioner/informant due to which they sustained injuries for which the petitioner/informant instituted Harsidhi P.S. Case No.376 of 2024 dated 09.07.2024. He further submits that the petitioner/informant and his family members(charge-sheeted witnesses) are in threat of violence by the Opposite Party No.2 and other accused persons.

5. Learned counsel for the Opposite Party No.2 submits that the trial is almost at the stage of completion and most of the witnesses of the case have been examined and therefore, there is no chance of tampering with the evidence or threatening the witnesses. He also relied upon the Judgment of the ***Hon'ble Apex Court*** passed in ***Cr. Appeal No.861 of 2025 (arising out of Special Leave Petition (Crl.) No.713 of 2025)***, the relevant paragraph of this judgment is as follows:

'13. Suffice to observe, liberty of an individual being a precious right under the



Constitution, the Courts ought to be wary that such liberty is not lightly interfered. We are satisfied that there was no valid reason for the High Court to cancel the bail without there being any material to show, even prima facie, that conduct of the appellant post grant of bail has been such that he should be deprived of his liberty. There are also no allegations of influence being exerted or threat extended to the witnesses or of tampering the evidence. Material to demonstrate that dilatory tactics have been adopted to procrastinate the trial is also conspicuous by its absence.'

6. Learned counsel for the Opposite Party No.2 (Md. Arshad @ Md. Arshad Alam) further relied upon the order passed by the High Court of Kerala at Ernakulam in the case of ***Renjith v. State of Kerala*** in ***Cr. M.C. No.854 of 2023***, the relevant paragraphs of this order are as follows:

'11. The mere registration of a subsequent crime against the accused by itself cannot result in an automatic cancellation of bail. Registration of a subsequent crime is only an indication of an allegation or a complaint of the accused having been involved in a subsequent crime. The presumption of innocence available to the accused in the second crime, the right to liberty as a fundamental right under Article 21 of the Constitution of India which envelopes every provision of the Code of Criminal Procedure are factors which cannot be forgotten by the Court when called upon to cancel the bail. The



possibility of false accusations being alleged with oblique motives also cannot be ignored. The nature of the subsequent offence and the persons against whom the offence is alleged to have been committed, the stage of the case wherein cancellation is sought are also factors that require appreciation. Apart from the above, while arriving at the conclusion to cancel the bail, the Court must also consider whether the accused had misused the liberty granted in such a manner that it has a tendency to interfere with the due course of the administration of justice. Thus, every case presents a unique situation and close scrutiny ought to be indulged in to identify whether overwhelming circumstances are indeed present in the subsequent crime which necessitates the cancellation of bail earlier granted.

12. As held in Dolat Ram and Others v. State of Haryana ((1995) 1SCC 349] very cogent and overwhelming circumstances are necessary to cancel the bail already granted and that bail once granted should not be cancelled in a mechanical manner without considering whether the 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.'

7. Considering the aforesaid facts and circumstances of the case, submissions of the learned counsels for both the parties and also on the basis of the above settled principle of



order/judgment passed by the Hon’ble Apex Court and High Court of Kerala at Ernakulam, this Court is of the view that in the present case, the accused has not misused the liberty granted in such a manner that it has a tendency to interfere with the due course of administration of justice. Therefore, I am not inclined to interfere with the order dated 17.05.2024 passed in Cr. Miscellaneous No. 14330 of 2024.

8. Accordingly, the prayer for the cancellation of the bail is hereby dismissed.

(Ramesh Chand Malviya, J)

Harshita/-

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