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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 1709/2025 & CRL.M.A. 7697-7698/2025**

**AZHAR HUSSAIN @AZHAR CHAUDHARY** .....Petitioner

Through: Mr. Lokesh Kumar Mishra, Mr.  
Sumit Kumar, Mr. Himanshu Sharma,  
Advocates

versus

**STATE OF NCT OF DELHI AND ANR** .....Respondents

Through: Mr. Satinder Singh Bawa, APP for  
the State with SI Nitin Kumar, PS  
Farsh Bazar

**CORAM:**  
**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**  
**11.03.2025**

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1. The present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023<sup>1</sup> (formerly Section 482 of the Code of Criminal Procedure, 1973<sup>2</sup>) seeks setting aside of order dated 05<sup>th</sup> March, 2025 passed by the Additional Sessions Judge, in the proceedings arising from FIR No. 398/2023 registered under Sections 354A/354/376/313/506/34 of the Indian Penal Code, 1860<sup>3</sup> at P.S. Farsh Bazar, Delhi. By the impugned order, the bail granted to the Petitioner, has been cancelled.

2. The Petitioner was granted bail by the Sessions Court on 23<sup>rd</sup> December, 2023. However, pursuant to an application moved by the

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<sup>1</sup> "BNSS"

<sup>2</sup> "Cr.P.C."

<sup>3</sup> "IPC"



Prosecutrix, the Trial Court cancelled the bail and directed the Petitioner to surrender within seven working days, *i.e.*, by 12<sup>th</sup> March, 2025.

3. The Prosecutrix has alleged that she was subjected to threats by the Petitioner, pressuring her not to depose against him in court. She emphasized that while granting bail, the Trial Court had imposed explicit conditions restraining the Petitioner from making any contact with her or attempting to influence or intimidate her in any manner. Despite these conditions, she received threatening calls and messages from the Petitioner. In support of her allegations, the Prosecutrix filed a complaint with the police on 24<sup>th</sup> October, 2024. Before the Trial Court, she presented evidence, including screenshots of messages purportedly sent from an Instagram account, call logs, and transcripts of conversations, in which the Petitioner allegedly urged her to withdraw the case and agree to a private settlement.

4. On the basis of these contentions, the Trial Court, after hearing the Petitioner, passed the following order:

*“3. The present application has been vehemently opposed on behalf of accused Azhar Hussain @ Azhar Chaudhary. It is contended by Ld. Counsel that chats filed on behalf of prosecutrix are fabricated. It is contended that accused Azhar Hussain @ Azhar Chaudhary is not having any Instagram ID ‘aznia.0020’. It is contended that the present application for cancellation of bail of accused Azhar Hussain @ Azhar Chaudhary was moved on 28.01.2025 and complaint to the police qua threat was made on 24.10.2024. However, the chats were of March 2024. It is contended that there is no reason for this undue delay. It is contended that in the present case 1<sup>st</sup> date of evidence was 07.03.2024, 2<sup>nd</sup> date of evidence was 15.05.2024, 3<sup>rd</sup> date of evidence was 14.08.2024 and 4<sup>th</sup> date of evidence was 26.10.2024, but prosecutrix did not appear on those dates and when on 26.10.2024 last and final opportunity was granted to prosecutrix for next date of hearing *i.e.* 30.01.2025 to ensure her presence for recording her evidence and it was made clear that no further opportunity was given to the prosecution to record her testimony, if she fails to appear before the Court on next date of hearing, then the present application has moved as prosecutrix do not wish to depose in the Court, rather*



*she just want to extort money from the accused Azhar Hussain @ Azhar Chaudhary. It is contended that on 26.10.2024 when accused Azhar Hussain @ Azhar Chaudhary appeared in the Court, prosecutrix and her mother took him to Cross River Mall where they told him either to marry the prosecutrix or to give her a sum of Rs. 20 lakhs. Accused Azhar Hussain @ Azhar Chaudhary somehow made video of that meeting. It is contended that accused Azhar Hussain @ Azhar Chaudhary has always appeared before the Court and he never hampered the trial. It is allegedly the case of promise to marry, while infact it is a matter of extortion. It is stated by Ld. Counsel that the phone of accused Azhar Hussain @ Azhar Chaudhary and phone of prosecutrix may be seized and appropriate investigation would be conducted by the police which would clarify that who contacted whom as it was prosecutrix who had made phone calls to the accused Azhar Hussain @ Azhar Chaudhary. It is pointed out that the complaint dated 24.10.2024 made by the prosecutrix has already been filed by the police as they did not find any merits in the same to proceed. It is contended that the present application may be dismissed.*

*Ld. Counsel relied on the case titled as Central Goods and Service Tax Delhi East Vs. Sh. Naval Kumar & Ors., Crl. M.C. 231/2021, decided on 04.06.2021 wherein it was held by Hon'ble High Court of Delhi in para no. 21 that "it is settled that once bail granted should not be cancelled in a mechanical manner without there being any supervening circumstances which are not conducive to fair trial. It cannot be cancelled on a request from the side of the complainant/ investigating agency unless and until it is established that the same is being misused and it is no longer conducive in the interest of justice to allow the accused any further to remain on bail. No doubt, the bail can be cancelled only in those discerning few cases where it is established that a person to whom the concession of bail has been granted is misusing the same."*

*Ld. Counsel also relied on the case titled as Godson Vs. State of Kerala, Crl.MC No. 2807 of 2022, decided on 10.08.2022 wherein it was held by Hon'ble High Court of Kerala at Ernakulam that what is relevant is not a mere violation of the bail condition but the satisfaction of the court that 'it is necessary to do so.*

*4. In rebuttal, it is contended on behalf of prosecutrix that apart from Instagram messages there are whatsapp chats and phone calls between accused Azhar Hussain @ Azhar Chaudhary and the prosecutrix. The prosecutrix was under stress due to the threat/inducement given by the accused Azhar Hussain @ Azhar Chaudhary that is why she did not inform the police earlier. It is contended that the prosecutrix has duly made complaint to the police, however police failed to take action on the same that is not the failure of the prosecutrix.*



5. Reply filed by the police to the present application for cancellation of bail of accused Azhar Hussain @ Azhar Chaudhary wherein it was mentioned that as per CDR analyses there are around 95 calls to prosecutrix's phone number (981XXXXXXX) by accused Azhar during the period from 01.03.2024 to 30.04.2024 by his phone no. 9536940020 (subscriber name Azhar Hussian Siddiqui). However, there are no record qua other mobile numbers. It is contended on behalf of State that application be decided as per law.

6. Heard. Record perused.

7. In bail order dated 23.12.2023 it was specifically directed to the accused Azhar Hussain @ Azhar Chaudhary that he or his family members will not contact/ communicate or send any message to the prosecutrix, in any manner, directly or indirectly and he will not induce/ threaten the witnesses or tamper the evidence, in any manner and if he would do so, he would be liable to cancellation of bail.

In the present matter, charges were framed on 07.03.2024 and matter was kept for P.E. for the 1<sup>st</sup> time for 15.05.2024. Strangely the accused Azhar Hussain @ Azhar Chaudhary started making phone calls to the prosecutrix immediately around that time i.e. in the month of March 2024. Thus, accused Azhar Hussain @ Azhar Chaudhary has not made phone calls to the prosecutrix randomly, rather he made phone calls when charges were framed/ about to be framed and matter was to be kept for P.E. These phone calls made by accused Azhar Hussain @ Azhar Chaudhary to the prosecutrix are clear violation of the directions given by the Court vide bail order dated 23.12.2023.

Further, Ld. Counsel for accused Azhar Hussain @ Azhar Chaudhary has shown 04 videos in his phone to the Court wherein it is claimed that prosecutrix and her mother are present alongwith the accused Azhar Hussain @ Azhar Chaudhary in Cross River Mall. It is further claimed by Ld. Counsel that it was prosecutrix and her mother who had taken the accused Azhar Hussain @ Azhar Chaudhary to Cross River Mall, however from the video it cannot be ascertained that it was prosecutrix and her mother who had taken the accused Azhar Hussain @ Azhar Chaudhary to Cross River Mall. It could have been opposite of the same that it was accused Azhar Hussain @ Azhar Chaudhary who might have taken them there. Moreso, accused Azhar Hussain @ Azhar Chaudhary has already made a set up wherein a friend or family member of him was clandestinely making the video of them. From the fact that this set up was made by the accused Azhar Hussain @ Azhar Chaudhary, thus it is possible that it was accused Azhar Hussain @ Azhar Chaudhary who had taken the prosecutrix and her mother into that trap at Cross River Mall for making that video. Be that as it may, the fact that accused Azhar Hussain @ Azhar Chaudhary started making phone calls to the



*prosecutrix in March 2024 and from March 2024 prosecutrix did not appear before the Court for evidence, shows that inducement and threat made by the accused Azhar Hussain @ Azhar Chaudhary had caused apprehension in the mind of the prosecutrix/ deter her from appearing in the Court and depose against him.*

*The arguments that prosecutrix made delayed complaint/application qua those threats, hence no action be taken on that, is not sound as that would mean the Court has to ignore the illegal action of the accused Azhar Hussain @ Azhar Chaudhary just because of inaction on the part of the prosecutrix which might be due to serious apprehension in her mind.*

*In such circumstances, considering the wilful violation of the conditions/ directions of bail order dated 23.12.2023, it appears to the undersigned that it is necessary to cancel the bail of the accused Azhar Hussain @ Azhar Chaudhary. Thus, the present application for cancellation of bail of accused Azhar Hussain @ Azhar Chaudhary is hereby allowed. Accused Azhar Hussain @ Azhar Chaudhary is directed to surrender in the Court within 07 working days i.e. till 12.03.2025 at 4:00 pm.*

*8. Copies of this order be given dasti to Ld. Counsel for accused Azhar Hussain @ Azhar Chaudhary."*

5. Mr. Lokesh Kumar Mishra, Counsel for the Petitioner, asserts that all the allegations made by the Prosecutrix are baseless and false. He contends that the Prosecutrix has been extorting money from the Petitioner, a fact that was also acknowledged by the Trial Court while granting bail to the Petitioner. He contends that the CDR relied upon by the Trial Court does not establish that the Petitioner personally made calls to intimidate the Prosecutrix, nor does it show the content of these conversations. The Instagram messages allegedly sent by the Petitioner are also disputed, with no forensic verification conducted to establish that the account in question belonged to him. Additionally, he denies the existence of any chat communications between the Petitioner and the Prosecutrix, and submits that the Petitioner is willing to submit his phone for testing to the FSL to verify the same.



6. Furthermore, Mr. Mishra contends that the Prosecutrix's allegations must be viewed in light of her continued absence from trial proceedings and her previous demands for financial settlement. He argues that the delay in raising the complaint and the timing of the application, just before her last opportunity to depose, indicate an attempt to use the bail cancellation process as a pressure tactic rather than a genuine apprehension of threat. In these circumstances, he urges the Court to set aside the impugned order and reinstate the Petitioner's bail.

7. The Court has considered the submissions of the Petitioner. It is pertinent to note that while granting bail to the Petitioner *vide* order dated 23<sup>rd</sup> December, 2023, the Trial Court had specifically imposed the following condition:

*“iv) That accused/ applicant or his family members will not contact/ communicate or send any message to the prosecutrix, in any manner, directly or indirectly”*

8. The facts and evidence brought on record reveals that the Petitioner wilfully violated the conditions imposed by the Trial Court, and made contact with the Prosecutrix through both calls and messages. It is pertinent to observe that on the Prosecutrix's application, the Trial Court had sought a response from the State. In its reply, the State explicitly stated that, based on the CDR analysis, approximately 95 calls were made to the Prosecutrix's phone number between 1<sup>st</sup> March, 2024 and 30<sup>th</sup> April, 2024, originating from a mobile number registered in the Petitioner's name. This independent analysis substantiates the Prosecutrix's claim that the Petitioner attempted to contact and influence her, despite the explicit prohibition imposed by the Trial Court.



9. Further, the Trial Court carefully considered the evidence placed on record, including the call logs, chat transcripts, and screenshots submitted by the Prosecutrix. It observed that the timing of the calls made by the Petitioner coincided with the framing of charges and the commencement of prosecution evidence, suggesting an attempt to deter or influence the Prosecutrix. The Court also noted that the Petitioner's conduct was not an isolated lapse, but a sustained pattern of contact, despite the explicit prohibition imposed in the bail order.

10. While the Petitioner has argued that there was a delay on the part of the Prosecutrix in filing her application following the threats allegedly received from him, the Court is of the opinion that this contention is of no substantial relevance. The record clearly reflects that after receiving calls and messages from the Petitioner during this period, the Prosecutrix ceased appearing before the Trial Court. This sequence of events strongly suggests that the Petitioner's conduct instilled fear and apprehension in the Prosecutrix, effectively deterring her from testifying and participating in the proceedings. Therefore, the delay in filing the complaint does not negate the gravity of the Petitioner's violation of the bail conditions or its direct consequences on the trial.

11. The Court acknowledges that the cancellation of bail is a serious measure that directly affects the personal liberty of the accused and should be exercised only in exceptional circumstances. However, it is equally important to recognize that bail is not an unfettered right but a conditional privilege, subject to the continued compliance of the accused with the terms imposed by the Court. Once bail is granted, the Court retains jurisdiction over the individual and bears the responsibility of ensuring that the liberty



afforded is not misused to subvert the legal process or intimidate witnesses. In this regard, this Court in *Charu Soneja v. State (NCT of Delhi)*,<sup>4</sup> observed as follows:

*“17..... 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.”*

12. In the present case, the facts outlined in the impugned order clearly demonstrate that the Petitioner deliberately violated the conditions of bail by repeatedly contacting and threatening the victim. The allegations of the Prosecutrix in this regard, were further corroborated by the report submitted by the State before the Trial Court. It is crucial to emphasize that in any trial, no form of coercion or threat should be directed at the Prosecutrix to influence her testimony. Such interference can have grave consequences, undermining fair trial. In the present case, as a result of the threats extended by the Petitioner, the Prosecutrix ceased appearing before the Trial Court, indicating that the Petitioner's actions instilled fear and apprehension, restraining the Prosecutrix from appearing in court, and effectively vitiating the purpose of trial. Consequently, given that the Petitioner intentionally contravened the conditions set forth in the bail order, the Court is of the opinion that the Trial Court rightly cancelled his bail. The impugned order is thus, devoid of any infirmity, and the Court finds no reason to interfere with

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<sup>4</sup> (2022) 1 HCC (Del) 30.



the same.

13. At this juncture, counsel for the Petitioner seeks an accommodation of ten days to take appropriate remedies against the order passed by this Court.

14. Considering the fact that the Petitioner has been on bail since 23<sup>rd</sup> December, 2023, it is directed that the period for surrendering is extended by ten days from today. The Petitioner is directed to surrender before the Trial Court within a period of 10 days from today, *i.e.*, by 21<sup>st</sup> March, 2025.

15. It is clarified that any observations made in the present order are for the purpose of deciding the present petition and shall not influence the outcome of the trial.

16. In view of the above, the present petition is disposed of along with the pending applications.

17. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.

**SANJEEV NARULA, J**

**MARCH 11, 2025/ab**