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

+ CRL.M.C. 881/2021

NARESH KUMAR

Through:Petitioner
Mr. Vijay Kinger, Mr. Ashwani Gehlot
and Ms. Roopa Nagpal, Advocates.

Versus

STATE -GOVT. OF NCT OF DELHI & ANR.

Through:Respondents
Mr. Shoaib Haider, Ld. APP for the State
with I.O SI Dinesh Kumar P.S. Nand
Nagri.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER
24.02.2025

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1. A Petition under Section 482 Cr.P.C has been filed on behalf of the Petitioner @ victim for cancellation of Bial of Respondent No.2 Mintoo @ Prashant granted vide Order dated 22.01.2021 by learned ASJ.
2. Briefly stated, the Petitioner Naresh Kumar is a social activist who is fighting against illicit business of liquor, narcotics and other illegal activities and involvement of minor children in this illegal business and gambling in the area of Police Station Nand Nagri, Delhi, since long time.
3. The Petitioner had filed a PIL W.P.(Crl.)1531/2016 titled as "Naresh Kumar vs. UOI & Ors." Which was disposed of vide Order dated 21.10.2019 and had sought protection for the Petitioner. The said Petition was disposed of with the observation that the State on its own was maintaining a register for granting protection to the Petitioner.
4. After the disposal of the Petition, the Police officials of Police Station Nand Nagri had abruptly stopped maintaining the register of the protection and safety of the Petitioner. He has been receiving threats from unsocial elements of the Society of



which he has made several requests to the Higher Officers of Respondent No.1 and to Police officials of Police Station Nand Nagri. The illegal sale of liquor, narcotics and gambling activities have again being become active in the area of Police Station Nand Nagri about which the Petitioner has been regularly informing the Police officials. He has started receiving threats from the Mafia and other gangsters to kill him and his family members if he did not stop working on the social issues. No police action has been taken despite his several calls on the Helpline Number. In June,2020, about six people came to the house of the Petitioner and open fire the threatened him and his family members. He made a call to the PCR, but no enquiry was made.

5. On 27.06.2020 he sent an email to the Police Commissioner of Delhi informing him about the incident. On 30.07.2020 a group of gangsters attacked the Petitioner with a motive to kill him. In this incident 4-5 bullets were shot at him resulting in multiple injuries. One bullet crossed one side of his head and damages the internal part of both the eyes resulting in complete loss of vision. The FIR No.0413 dated 03.07.2020 under Section 307/34 IPC read with Section 27 Arms Act was registered.

6. An Application CRL.M.A9628/2020 in the W.P.(Crl.)1531/2016 was dismissed on 21.07.2020 with liberty to file an application before the appropriate Court of law. The Petitioner is aggrieved by the impugned Order dated 22.01.2021 of learned ASJ granting Bail to Respondent No.2 which is sought to be cancelled on the following grounds:

- (i) that despite his name being given about his involvement in the incident, he was put in Column No.12 which creates a doubt about the investigations;
- (ii) the Petitioner had given representation to the Higher Authorities with regard to the active involvement of Respondent No.2 in the commission of the offence;



(iii) the Investigating Officer intentionally did not appear before learned Sessions Court at the time of arguments on the Bail Application for which reason the impugned Order is liable to be set aside;

(iv) it has not been appreciated that the judicial custody of Respondent No.2 is required to connect the strings of the entire conspiracy against the Petitioner;

(v) it has also not been considered that criminal background of Respondent No.2 and his previous involvements in FIR need to be ascertained; and

(vi) there is an apprehension that he along with other associates may again attack the Petitioner and his family members.

7. Hence, a prayer is made for cancellation of Bail of Respondent No.2.

8. The **Status Report** has been filed on behalf of the State.

9. It is submitted that the Respondent No.2 Prashant was arrested on 08.07.2020 and two pistols and four live cartridges were recovered from his possession. Chargesheet was filed against Sandeep, Jugnu Vishal, Prashant and Laxmi, wherein the Respondent No.2 Prashant was put in Column No.12.

10. However, a Supplementary Chargesheet was filed on 19.04.2023 against Mintoo @ Prashant Respondent No.2 , wherein he has been put in Column No.11.

11. Charges under Section 307/149/120B IPC has been framed against Sandeep @ Bablu, Farid @ Jugnu and Laxmi while Charges under Section 307/149/120 B IPC and Section 27 Arms Act have been framed against Respondent No.2 Prashant and Vishal.

12. The FSL Report in regard to weapon of offence has already been obtained.

13. The co-accused Prashant Jindal, Farid @ Fariddudin @ Jugnu and Sandeep are still in Judicial Custody. Accused Laxmi has been declared a Proclaimed Offender.

14. Applicant had filed a Complaint regarding receiving threats from Mandoli Jail and on enquiry it was found that the mobile number used for extending threats was registered in the name of Seema D/o Islamuddin. Further enquiry revealed that Salma Begum, mother of Seema had told that her daughter had married against their will and she is living somewhere else in Khajuri, but they were not aware of the exact address.



15. On further perusal of CDR of alleged number, it was found that during the relevant period the number was connected to the Tower which was situated near Mandoli Jail.

16. To ensure the safety and security concerns of the Applicant, Beat staff/motor cycle patrolling/ERV staff have been briefed to keep a regular watch/patrolling at and around his residence. Furthermore, as per the interim Orders of Witness Protection Committee, a PSO from P.S. Nand Nagri has been provide to the Applicant round the clock.

17. **Learned counsel on behalf of the Petitioner** submits that the cancellation of bail is sought on the ground that counsel for Respondent No.2 is not forthcoming for concluding the cross-examination of the Complainant. Furthermore, there is a threat perception of the Petitioner and that the Bail granted to Respondent No.2 may be cancelled.

18. **Submissions heard and record perused.**

19. The Petitioner/Complainant had been fired by the named accused persons and four bullets hit him; one on his left shoulder, second on the side of his head which has left him completely blind by both the eyes, and the third and fourth in the back. The Bail was granted by the learned ASJ by considering the facts and circumstances of this case.

20. The *first ground* on which Bail cancellation is sought is that the counsel for the Respondent No.2 is not forthcoming for concluding the cross-examination of the Petitioner. However, this cannot be a ground for cancellation of Bail. The learned Trial Court may ensure that the cross-examination is completed expeditiously and no unwarranted adjournments are granted to the Counsel for Respondent No.2 for concluding the cross-examination.

21. The *second and the main ground* is that the Petitioner has a threat perception. On further query, it has been disclosed that the threats are being received from Mandoli Jail where co-accused Jugnu is lodged. There is no averment of any threat having been extended by the Accused.



22. In the Writ Petition filed by the Petitioner, the Witness Protection Committee has already made detailed Protection Order for the Applicant. Moreover, as submitted in the Status Report, a 24 X 7 PSO has already been provided to the Petitioner aside from patrolling and other steps as narrated above, by the District Witness Protection Committee.

23. There is no specific averment of the Respondent No.2 having misused his liberty and there is also no averment that the threats have been extended by the Respondent No.2.

24. Considering the totality of circumstances, no case is made out for cancellation of Bail. However, the Respondent shall continue to provide the security in terms of the Orders of the Witness Protection Committee.

25. The Petition is accordingly disposed of.

NEENA BANSAL KRISHNA, J

FEBRUARY 24, 2025/va