



2025:DHC:7869



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on:09.09.2025*+ **CRL.M.C. 3080/2022****HARENDRA KUMAR**

.....Petitioner

Through: Mr. Shripal Upadhyay,
Advocate

versus

STATE OF NCT DELHI & ANR.

.....Respondents

Through: Mr. Manoj Pant, APP for the
State with ACP Ravi Shanker
and Inspector Yad Ram.**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. The petitioner-complainant, by way of the present petition, seeks cancellation of bail granted to the respondent no. 2-accused *vide* order dated 15.03.2022 [hereafter '*impugned order*'] passed by the learned ASJ-02, South-East, Saket Courts, Delhi [hereafter '*Trial Court*'] in case arising out of FIR No. 158/2019, registered at Police Station Jamia Nagar, South-East, Delhi for commission of offence punishable under Sections 3 and 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 [hereafter '*SC/ST Act*'] .

2. Briefly stated, the FIR came to be registered on the complaint



of the petitioner pursuant to directions under Section 156(3) of the Cr.P.C. The petitioner had been working as a Guest Teacher (TGT-Computer) at Jamia Middle School, Jamia Millia Islamia University since 26.09.2017. It was alleged that from the very first day of his joining, the accused, who was officiating as Head Master, had enquired about his caste and, upon learning that he belonged to the Scheduled Caste community (Jatav), had started humiliating and insulting him before other staff members by repeatedly addressing him with caste-based abusive words. The accused had compelled the complainant to perform menial tasks such as preparing tea, washing utensils and hanging curtains, and had threatened to terminate his services when he objected. On several occasions, he had publicly humiliated the complainant by calling him derogatory names in front of other teachers. On 26.11.2017, the complainant had been called to school on a holiday and forced to serve tea to a guest, and on the same day was allegedly asked to copy obscene material from a pen drive to a mobile phone, which he refused. The complainant had informed other staff members, who had also objected to such behaviour. On 22.02.2018, the accused had again abused and threatened him for complaining about these acts, and later, in conspiracy with another teacher, had terminated his employment on baseless grounds. On these allegations, the present FIR came to be registered.

3. As per Status Report, during the course of investigation, the caste certificate of the complainant was verified from Tehsildar,



Sikandarabad, Uttar Pradesh. Several witnesses were also examined by the I.O., however, they denied the allegations levelled by the complainant against the accused, except a few related to the complainant being asked to make tea by the accused. The respondent no.2-accused was interrogated during the course of investigation, but was not arrested and was bound down as per Section 41A of the Cr.P.C.

4. After completion of investigation, chargesheet was filed against the accused before the concerned Court. Upon being summoned by the learned Trial Court, the respondent no.2-accused filed a bail application. The said bail application was decided *vide* impugned order dated 15.03.2022 and he was granted bail in the present case. The relevant portion of the said order reads as under:

“6. Accused admittedly was not arrested by police during investigation. He is a retired teacher from Jamila Milia Islamia University. There are no criminal antecedents of accused. The allegations of accused threatening family members of complainant are vague. Ld. Counsel for complainant argued that investigation must be carried out by police, with regard to the fact that accused may threaten family members of complainant. The said submissions, as such do not hold ground as this court at this stage of the matter, cannot direct investigation, with regard to the aspect highlighted above, as it is not prescribed in CrPC. Ld. Counsel for complainant is at liberty to take appropriate legal action against the concerned persons including accused, if involved, for the purpose of redressal of grievances of complainant. Considering the nature of allegations, previous criminal antecedents of accused and other circumstances of this case, accused Mohd. Mursaleen is granted bail...”

5. Aggrieved by the grant of bail to the accused, the complainant



has preferred the present petition.

6. The learned counsel appearing for the petitioner argued that the impugned order is not legally sustainable since bail was granted to the accused on erroneous grounds, without properly hearing the petitioner, and without a proper application of judicial mind to the facts and record presented before it. It was argued that on 23.01.2021, the accused had gone to the native place of the petitioner and threatened him as well as his father to withdraw the case and settle the matter in lieu of some money. Pursuant thereto, the petitioner had filed a written complaint before the I.O., which was recorded *vide* DD no. 54A on 29.01.2021; however, neither any investigation was conducted on the same, nor was this fact allowed to be timely agitated before the Trial Court by the petitioner. Besides, the petitioner's allegations concerning the influential position of the accused and its potential hindrance in the investigation also have been alleged to have not weighed in the learned Trial Court. It was therefore contended that the said omissions on the part of the learned Trial Court are material insofar as the grant of bail to the accused is concerned. It was also contended that there are violations of Section 15A of the SC/ST Act, and the I.O.'s and the learned Trial Court's indifference to the same, supported by the material placed on record, renders the impugned order arbitrary and illegal, and thus, liable to be set aside.

7. On the other hand, the learned counsel appearing for respondent no. 2-accused argued that the present petition is



misleading, concocted, and premised on incomplete facts. It was argued that vengeance on the part of the petitioner towards the respondent, given the respondent having taken a serious note of the questionable conduct of the petitioner, whereafter he had to dismiss the petitioner from service, appears to have driven the petitioner in filing the false complaint and also the present petition. It was further contended that the impugned order was passed after considering all the relevant factors that are to be weighed in while adjudicating any bail application, viz., no criminal antecedents of the accused, old age of the accused, and the accused's position vis-a-vis the investigation. Besides, it was contended that even the witnesses did not support the case of petitioner during the course of investigation since he had filed a false and frivolous complaint. It was contended on behalf of the accused that he had cooperated during the course of investigation and that ever since the grant of bail, he has regularly appeared before the learned Trial Court, and undisputedly complied with all the conditions that had been imposed on him while granting him bail. Thus, it was prayed that the present petition be dismissed as the impugned order does not, in any manner, suffer from infirmity or prejudice the case of the petitioner.

8. The learned APP appearing for the State argued that the allegations against the accused in the complaint were serious and very specific; however, he did not dispute the fact that the I.O. did not arrest the accused during the course of investigation and chargesheet was filed without arrest, as he had cooperated in the



investigation.

9. This Court has **heard** arguments addressed on behalf of the petitioner, the State and the accused, and has perused the material available on record.

10. As the petitioner has sought setting aside of the impugned bail order and cancellation of the bail granted to the respondent no. 2-accused, it would be relevant to take note of the well-settled position of law in this regard. In this regard, the observations of the Hon'ble Supreme Court in case of **Deepak Yadav v. State of Uttar Pradesh: (2022) 8 SCC 559** are set out below:

“30. This Court has reiterated in several instances that 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 trial. Having said that, in case of cancellation of bail, very cogent and overwhelming circumstances are necessary for an order directing cancellation of bail (which was already granted). A two-Judge Bench of this Court in **Dolat Ram And Others v. State of Haryana (1995) 1 SCC 349** laid down the grounds for cancellation of bail which are :-

- (i) interference or attempt to interfere with the due course of administration of Justice
- (ii) evasion or attempt to evade the due course of justice
- (iii) abuse of the concession granted to the accused in any manner
- (iv) Possibility of accused absconding
- (v) Likelihood of/actual misuse of bail
- (vi) Likelihood of the accused tampering with the evidence or threatening witnesses.

31. It is no doubt true that cancellation of bail cannot be limited to the occurrence of supervening circumstances. This Court



certainly has the inherent powers and discretion to cancel the bail of an accused even in the absence of supervening circumstances. Following are the illustrative circumstances where the bail can be cancelled:-

- a) Where the court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record.
- b) Where the court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim.
- c) Where the past criminal record and conduct of the accused is completely ignored while granting bail.
- d) Where bail has been granted on untenable grounds.
- e) Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.
- f) Where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified.
- g) When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case.”

11. Thus, the settled law is that bail once granted should not be cancelled mechanically, and very cogent and overwhelming circumstances are required for such cancellation. Bail may be cancelled where the accused misuses the concession or obstructs the course of justice, and a bail order may also be set aside if it is found to be perverse, based on irrelevant considerations, or passed by overlooking material factors and the gravity of the offence.

12. In the present case, the allegations against the respondent no. 2-accused pertain to his having allegedly subjected the petitioner to repeated caste-based humiliation and insults before other staff



members, compelling him to perform menial tasks such as preparing tea, etc., calling him on a holiday to serve refreshments to guests, attempting to involve him in objectionable activities by asking him to copy obscene material, threatening him with termination of service when he resisted, and ultimately conspiring with another teacher to dismiss him from employment on baseless grounds.

13. However, having perused the material on record, this Court considers it pertinent to note that during the course of investigation, the I.O. had enquired from the witnesses regarding the allegations of the complainant, as the complainant himself had mentioned in his complaint that his allegations could be corroborated from the statements of staff and teachers of the school. The said witnesses, however, informed the I.O. that no such incidents, as alleged by the complainant, had taken place in their presence. It is also a matter of fact that the accused was not arrested by the I.O. during the course of investigation. Thus, notably, the I.O. himself did not find it necessary to arrest the accused and proceeded to file the chargesheet without effecting such arrest.

14. In the aforesaid context, it would be relevant to note that the Hon'ble Supreme Court in **Satender Kumar Antil v. CBI: (2022) 10 SCC 51**, held that in cases where (i) the accused is not arrested during investigation, and (ii) the accused has cooperated throughout investigation, there is no requirement to forward the accused along with the chargesheet. Further, in cases where the offence alleged is punishable with imprisonment up to seven years or less (i.e. category



A offences), once the chargesheet is filed, the Court should ordinarily issue summons to the accused, and upon his appearance, decide his bail application. It was also observed that in such circumstances, the exercise of discretion should lean more in favour of the accused.

15. In order to assess the legality of the impugned order, or alleged perversity, if any, in the order, it would be relevant to take note of the reasoning of the learned Trial Court and tenability of the considerations weighed in by it while deciding the bail application. In this regard, this Court notes that the learned Trial Court in the impugned order has taken note of the following: (i) that the accused had not been arrested by the police during investigation; (ii) that he is a retired teacher from Jamia Millia Islamia University; (iii) that there are no criminal antecedents of the accused; (iv) that the allegations regarding threats extended to the family members of the complainant were vague; (v) that at this stage, the Court could not direct investigation into such alleged threats, as the same was not contemplated under the Cr.P.C., and liberty was granted to the complainant to take recourse to appropriate legal remedies; and (vi) that considering the nature of allegations, absence of previous criminal antecedents and overall circumstances, the accused was found entitled to grant of bail.

16. Considering the principles laid down by the Hon'ble Supreme Court in **Satender Kumar Antil** (*supra*), and having regard to the facts of the present case wherein the accused had not been arrested during investigation, had no criminal antecedents, and the I.O. had



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found it unnecessary to effect his arrest before filing the chargesheet, it is apparent that the impugned order granting bail proceeds on a correct appreciation of law and facts, and does not suffer from any perversity or illegality.

17. It would also be relevant to note that the accused has been cooperating with the investigating agency and has been appearing before the learned Trial Court, and no grievance in this regard has been raised or argued before this Court. It has also not been alleged by either the petitioner or the State that since the grant of bail i.e. in the year 2022, the accused has misused his liberty even once or threatened the petitioner or attempted to tamper with any evidence or influence the witnesses, or defy any other bail condition imposed upon him, especially post the impugned order, which was passed more than three years back. That apart, it is also material to note that the accused has no prior criminal antecedents, and as on date, he is aged about 64 years.

18. In continuation to the above, it may be observed that the contention of the petitioner, questioning the propriety of the impugned order on the ground that the learned Trial Court did not take into account his complaint dated 29.01.2021 alleging threats extended by the respondent no. 2-accused, coupled with the absence of any direction for investigation into the said complaint while hearing the bail application, is misplaced. It is pertinent to note that *vide* order dated 11.03.2022, the said application was listed for hearing on 30.03.2022, thereby affording the petitioner an



opportunity to bring on record the said aspect, and thus there was no prejudice caused to his right to a fair adjudication of this grievance. In fact, on 30.03.2022, the Trial Court specifically recorded that no action had been taken by the concerned SHO on the petitioner's complaint dated 28.01.2021 and, in that context, had summoned the I.O. to file a report as to what steps were taken on the said complaint. Therefore, it is clear that the impugned bail order dated 15.03.2022 does not suffer from any infirmity on this ground, as the petitioner was given adequate opportunity to pursue his remedies in respect of his allegations, and his right to take appropriate legal recourse qua the said complaint remained fully protected.

19. In view of the foregoing discussion, this Court is of the considered opinion that neither does the impugned order suffer from any perversity or illegality in regard to the considerations weighed by the learned Trial Court while granting bail, nor has any subsequent event or complaint been brought on record which would warrant cancellation of the bail granted to the respondent no. 2-accused.

20. The present petition is, therefore, stands dismissed.

21. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case

22. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
SEPTEMBER 09, 2025/ns
T.D.