



\$~27 & 28

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

+ CRL.M.C. 3459/2025
MS. S

.....Petitioner

Through: Ms. Tara Narula,
Advocate from DHCLSC
with Ms. Shivanjali
Bhalerao, Advocate.

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Sunil Kumar Gautam,
APP for the State with
Insp. Karuna Sagar and SI
Reena Kumari, PS Budh
Vihar.

+ CRL.M.C. 3501/2025
MS. S

.....Petitioner

Through: Ms. Tara Narula,
Advocate from DHCLSC
with Ms. Shivanjali
Bhalerao, Advocate.

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Sunil Kumar Gautam,
APP for the State with
Insp. Karuna Sagar and SI
Reena Kumari, PS Budh
Vihar.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **22.09.2025**

1. The present petitions are filed seeking cancellation of bail granted to Respondent No. 2/Mohit in CRL.M.C. 3459/2025 *vide*



order dated 11.03.2025 and cancellation of pre-arrest bail granted to Respondent No. 2/Dilip in CRL.M.C. 3501/2025 *vide* order dated 04.03.2025 arising out of FIR No. 55/2025 ('FIR') for offences under Sections 376/506 of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Briefly stated, the FIR was registered pursuant to the directions of the learned Magistrate in the application filed by the complainant under Section 156(3) of the Code of Criminal Procedure, 1973 ('CrPC'). In the complaint, the complainant alleged that her minor daughter/petitioner was subjected to sexual assaults by her tenants – Mohit and Dilip during the period between 14.03.2022 – 29.01.2023. It was further alleged that Respondent No. 2/Mohit recorded obscene photographs and videos of the petitioner and used them to intimidate her. It is alleged that Respondent No. 2/Mohit also made a video call to Manoj and Ramsingh during the commission of the alleged offence and that the said persons instructed Respondent No. 2/Mohit to commit the said acts. The FIR was registered on 28.01.2025 and pertain to the acts of alleged sexual assault committed between March 2022 – January 2023.

3. The petitioner, in her statement under Section 183 of the CrPC recorded on 30.01.2025, supported the allegations made in the FIR.

4. Respondent No. 2/Mohit was arrested on 28.01.2025.

5. Prior to the registration of the FIR, on 16.03.2023, a PCR call was made by the petitioner's mother at Police Station Budh Vihar reporting that distant relatives residing at her house had



committed wrongful act against her 17-year-old daughter. On that occasion, during her medical examination, the petitioner, in the presence of her mother and the counsellor, stated that she was in a relationship with Respondent No. 2/Mohit and that there was no history of any physical or sexual assault committed by him. She further stated that her parents were pressurising her to file a false complaint of molestation. Further, during the course of counselling, the petitioner reiterated that she was not subjected to any sexual assault and that she did not wish to pursue any case against Respondent No. 2/Mohit.

6. During the course of investigation in the present case, Respondent No. 2/Mohit after being admitted on bail, submitted certain handwritten letters allegedly authored by the petitioner. When the petitioner was shown these letters by the Investigating Officer, the petitioner initially made no comment. However, after returning home, the petitioner sent a photograph of the handwritten note on WhatsApp stating that the letters were written by her in 2023 under the instructions of SI Ritu.

7. By order dated 11.03.2025, the learned ASJ enlarged accused Mohit on bail noting that the allegations pertained to the year 2022 and 2023 and the FIR was registered belatedly in the year 2025. It was noted that the possibility of the romantic relation of the petitioner and Respondent No. 2/Mohit to have turned sour could not be ruled out at that stage. It was noted that the allegations were generic in nature and did not provide the date, time, and place when Respondent No. 2/Mohit committed the said act. It was noted that the petitioner has now attained majority. It was further noted that the delay in registration of FIR



was also not properly explained.

8. Respondent No. 2/Dilip *vide* order dated 04.03.2025 was granted pre-arrest bail by the learned ASJ. It was noted that the petitioner who has herself attained the age of majority had not filed any complaint, and that the FIR was registered on a complaint given by the mother of the petitioner. It was noted that the delay in the registration of the FIR was also not properly explained. It was noted that Respondent No. 2/Dilip was ready to join the investigation.

9. The learned counsel for the petitioner submits that the learned ASJ erroneously granted bail to Respondent No. 2/Mohit and pre-arrest bail to Respondent No. 2/Dilip noting that the delay in lodging the FIR was not properly explained. She submitted that the learned ASJ passed the orders dated 11.03.2025 and 04.03.2025 without taking into account the fact that the chargesheet had not been filed. She submits that the petitioner has been receiving threats from the family of the accused persons. She submits that the petitioner had faced resistance from the police at the time of registration of FIR, and that the FIR was finally registered only pursuant to the application preferred by the petitioner's mother under Section 156(3) of the CrPC.

10. She submits that the statements made by the petitioner on an earlier occasion that she was in a relationship with accused Mohit were given under coercion. She submits that the petitioner had also received threats from the accused persons pursuant to the grant of bail, in respect of which handwritten complaint was given to the SHO.



11. On being asked, the learned Additional Public Prosecutor for the State, on instructions, submits that pursuant to the grant of bail to Respondent No. 2 in the respective cases, no threats were given to the petitioner and no complaint also was received in that regard. He, however, submits that as and when any complaint would be made, prompt action will be taken.

12. It is trite law that an order granting bail ought not to be disturbed unless there are strong reasons and overwhelming circumstances to do so. The party seeking cancellation of bail must establish a compelling case and demonstrate that the said order was illegal, unjust or improper.

13. The law in relation to the setting aside or cancellation of bail is well settled. The consideration for cancellation of bail stands on different footing than grant of bail. The Hon'ble Apex Court, advertent to a catena of judgments, had discussed the grounds for cancellation of bail in exercise of jurisdiction under Section 439 (2) of the CrPC (*pari materia* to Section 483 (3) of the BNSS) in the case **Abdul Basit v. Mohd. Abdul Kadir Chaudhary : (2014) 10 SCC 754**. The relevant portion of the judgment is reproduced hereunder:

“14. Under Chapter XXXIII, Section 439(1) empowers the High Court as well as the Court of Session to direct any accused person to be released on bail. Section 439(2) empowers the High Court to direct any person who has been released on bail under Chapter XXXIII of the Code be arrested and committed to custody i.e. the power to cancel the bail granted to an accused person. Generally the grounds for cancellation of bail, broadly, are, (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation, (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation, (v) there is likelihood of his



fleeing to another country, (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency, (vii) attempts to place himself beyond the reach of his surety, etc. These grounds are illustrative and not exhaustive....

xxx

17. In this context, it is profitable to render reliance upon the decision of this Court in *Puran v. Rambilas* [(2001) 6 SCC 338 : 2001 SCC (Cri) 1124] . In the said case, this Court held (SCC p. 345, para 11) that the concept of setting aside an unjustified, illegal or perverse order is absolutely different from cancelling an order of bail on the ground that the accused has misconducted himself or because of some supervening circumstances warranting such cancellation. In *Narendra K. Amin v. State of Gujarat* [(2008) 13 SCC 584 : (2009) 3 SCC (Cri) 813] , the three-Judge Bench of this Court has reiterated the aforesaid principle and further drawn the distinction between the two in respect of relief available in review or appeal. In this case, the High Court had cancelled the bail granted to the appellant in exercise of power under Section 439(2) of the Code. In appeal, it was contended before this Court that the High Court had erred by not appreciating the distinction between the parameters for grant of bail and cancellation of bail. The Bench while affirming the principle laid down in *Puran* case [(2001) 6 SCC 338 : 2001 SCC (Cri) 1124] has observed that when irrelevant materials have been taken into consideration by the court granting order of bail, the same makes the said order vulnerable and subject to scrutiny by the appellate court and that no review would lie under Section 362 of the Code. In essence, this Court has opined that if the order of grant of bail is perverse, the same can be set at naught only by the superior court and has left no room for a review by the same court.

xxx

19. **Therefore, the concept of setting aside an unjustified, illegal or perverse order is different from the concept of cancellation of a bail on the ground of accused's misconduct or new adverse facts having surfaced after the grant of bail which require such cancellation and a perusal of the aforesaid decisions would present before us that an order granting bail can only be set aside on grounds of being illegal or contrary to law by the court superior to the court which granted the bail and not by the same court.**

xxx

21. It is an accepted principle of law that when a matter has been finally disposed of by a court, the court is, in the absence of a direct statutory provision, *functus officio* and cannot entertain a fresh prayer for relief in the matter unless



and until the previous order of final disposal has been set aside or modified to that extent. It is also settled law that the judgment and order granting bail cannot be reviewed by the court passing such judgment and order in the absence of any express provision in the Code for the same. Section 362 of the Code operates as a bar to any alteration or review of the cases disposed of by the court. The singular exception to the said statutory bar is correction of clerical or arithmetical error by the court.”

(emphasis supplied)

14. The Hon’ble Apex Court in the case of **Himanshu Sharma v. State of Madhya Pradesh : 2024 INSC 139** had held as under:

“12. Law is well settled by a catena of judgments rendered by this Court that the considerations for grant of bail and cancellation thereof are entirely different. Bail granted to an accused can only be cancelled if the Court is satisfied that after being released on bail, (a) the accused has misused the liberty granted to him; (b) flouted the conditions of bail order; (c) that the bail was granted in ignorance of statutory provisions restricting the powers of the Court to grant bail; (d) or that the bail was procured by misrepresentation or fraud.....”

(emphasis supplied)

15. The primary grounds for seeking the cancellation of bail include the misuse of liberty, attempts to influence and threatening the witnesses, and the seriousness of the offence. It is a well-established legal principle that bail cannot be cancelled merely on the basis of reappreciation of evidence by any court.

16. In the present case, the petitioner has sought cancellation of bail on the ground that the order was passed in a callous manner before the chargesheet had been filed. It has also been argued that the pursuant to the grant of bail, the victim has received threats from the accused persons in relation to which a complaint was also given.

17. Insofar as the contention that the bail was granted to the



accused persons prior to the filing of chargesheet is concerned, it is pertinent to note that the learned ASJ was rightly weighed in by the fact that the allegations pertained to the year 2022-2023 yet the FIR was registered only in the year 2025. It was noted that the allegations were generic in nature and did not mention any date, time or place when the alleged incidents took place. The learned ASJ further noted that despite the fact that the petitioner had attained majority, the complaint was not given by her.

18. From a perusal of the Status report, it appears that a PCR call was also made on an earlier occasion alleging that the accused persons had sexually assaulted the petitioner. The status report reflects that on that occasion, the petitioner in the presence of the counsellor and her mother, and also during the course of her medical examination had stated that accused Mohit had not sexually assaulted her and that a false complaint of molestation was given by her under the pressure of her parents. On that occasion, on 17.03.2023, the petitioner had also been produced before the Hon'ble Child Welfare Committee wherein she reaffirmed that she had gone to the police station with her boyfriend being accused Mohit to report harassment by her parents.

19. In the light of the aforesaid, this Court is of the opinion that the reasoning given by the learned ASJ while granting bail to the accused persons that the allegations against the accused persons are generic in nature and the possibility of the romantic relationship between the petitioner and accused Mohit to have turned sour cannot be ruled out and the fact that the delay in



registration of FIR had not been properly explained, do not require any interference. Whether the accused persons are guilty of the alleged offences or not would be determined during the course of the trial, however, at this stage, the observations made by the learned ASJ while granting bail to the accused persons does not warrant any interference by this Court.

20. In ***Deepak Yadav v. State of U.P. : (2022) 8 SCC 559***, the Hon'ble Apex Court has emphasised that bail once granted, should not be cancelled in a mechanical manner. Cancellation of bail must be on very cogent and overwhelming circumstances.

21. Further, in the opinion of this Court, no supervening circumstances have been made out to warrant the cancellation of bail. It has been argued that the accused persons, pursuant to the grant of bail, have given threats to the petitioner in respect of which complaints were given to the SHO. The complaints *prima facie* does not inspire confidence.

22. However, in order to allay the apprehensions of the petitioner, this Court considers it apposite to impose a further condition that the family members of the accused persons shall also not contact the victim in any manner whatsoever.

23. The petitioner is also at liberty to give a complaint to the Investigating Officer in case she receives any threat. As and when any such complaint is given, the State is directed to take prompt action in accordance with law.

24. In view of the aforesaid discussions, this Court finds no reason to cancel the bail granted to the accused persons.

25. Needless to say, if any grievance remains, the petitioner is at liberty to file an appropriate petition before the Court in future.



26. The present petitions are dismissed in the aforesaid terms.
27. It is clarified that any observations made in the present order are only for the purpose of deciding the present petitions and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.
28. A copy of the order be placed in both the matters.

AMIT MAHAJAN, J

SEPTEMBER 22, 2025

DU