



2025:AHC:211017

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL CANCELLATION APPLICATION No. - 355 of 2025

Nikhil Kumar

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Pranshu Dwivedi, Ram Prakash
Dwivedi

Counsel for Opposite Party(s) : G.A.

Court No. - 67

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.

2. Heard Sri Ram Prakash Dwivedi, learned counsel for applicant, Sri Anand Pati Tiwari, learned counsel for opposite party no.2 as well as Sri V.K.S. Parmar, learned AG.A. for the State.

3. The present bail cancellation application has been filed to set-aside the bail order dated 16.3.2016 granted to opposite party no.2 with regard to S.T. No.806 of 2014 (State vs. Amir & Others), arising out of Case Crime No.1310 of 2012, under Sections 302, 120-B I.P.C., Police Station-Sahibabad, District- Ghaziabad in Criminal Misc. Bail Application No.30613 of 2014 (Amir vs. State of UP).

ARGUMENTS ON BEHALF OF APPLICANT:

4. The applicant is an aggrieved person as his father has been put to death by opposite party no.2 subsequent to the instant FIR and after being enlarged on bail by this Court vide order dated 16.3.2016.

5. The said murder has been committed by opposite party no.2 and other accused persons on 9.11.2017 at 04:30 p.m. and the FIR in this regard was instituted by the applicant herein, which was registered Case Crime No.3080 of 2017.

6. In the aforesaid Case Crime No.3080 of 2017, the opposite party no.2 was

granted bail by this Court vide order dated 8.1.2019 passed in Criminal Misc. Bail Application No.46860 of 2018.

7. The said order dated 8.1.2019 passed by this Court was challenged by the applicant before the Supreme Court by filing Criminal Appeal No.999 of 2022 [@ SLP (CRL.) No.2083/2019] and the Supreme Court was pleased to set-aside the order dated 8.1.2019 of this Court and remitted back the matter to this Court for reconsideration of bail application of opposite party no.2, vide its order dated 18.7.2022.

8. There is every likelihood of the applicant being released on bail in Case Crime No.3080 of 2017, and after being released on bail, he may commit other offences including the murder of applicant.

9. The applicant has a long criminal history of 23 cases. As such, the bail granted to opposite party no.2 vide order dated 16.3.2016 is liable to be cancelled.

ARGUMENTS ON BEHALF OF OPPOSITE PARTY NO.2:

10. The present bail cancellation application has been vehemently opposed on the ground that applicant has nothing to do with the instant case.

11. The applicant is neither a witness nor an aggrieved person and does not fall within the category of complainant/victim in the instant case as provided U/s 301 or 2(wa) of Cr.P.C.

12. It is true that opposite party no.2 is wanted in the murder of father of the applicant herein, but he has nothing to do with the instant case.

13. The instant bail cancellation application is just a misuse of process of Court.

14. In the said Case Crime No.3080 of 2017, the opposite party no.2 was granted bail and the same was challenged by the applicant herein before the Supreme Court, as such, the Supreme Court set-aside the said order vide order dated 18.7.2022 and remanded it back to this Court for rehearing of the bail application. The said bail application is yet to be decided by this Court, as such, the present bail cancellation application is liable to be rejected.

CONCLUSION:

15. The opposite party no.2 is in jail as is evident from the report dated 21.11.2025 received from the Chief Judicial Magistrate, Ghaziabad.

16. The applicant has no locus to seek cancellation of bail because he is a stranger to the present proceedings and does not fall within the statutory concept of "victim," which is confined to the person who has suffered loss or injury in that very case (or their guardian/legal heir) under the 2009 amendment to CrPC and its retention in BNSS 2023. The expanded victim rights regime was meant to empower victims in their own cases, not to allow a victim from one matter to intervene vindictively in an unrelated case, and therefore an application moved out of vengeance or personal vendetta should not be entertained as it would subvert justice rather than aid proper adjudication. The courts cannot be permitted to be used as a conduit to settle personal scores.

17. The advocate has not fulfilled the obligations owed to the Court by assisting in the filing of a meritless bail cancellation application, instead of dissuading the client and thereby conserving judicial time and promoting the proper administration of justice. It further conveys that presenting such a frivolous application amounts to an abuse of the process which disrupts the administration of justice, contrary to the duty of an advocate as an officer of the Court to ensure that baseless or vexatious proceedings do not clog the judicial system.

18. After hearing learned counsel for the parties and taking into consideration that applicant is an alien to the instant Case Crime No.1310 of 2012 as he is neither an informant nor a victim, as such, no application can be entertained by any foreigner in a criminal proceedings, I do not find it a fit case for setting-aside the bail order granted to opposite party no.2.

19. The bail cancellation application is found devoid of merits and is, accordingly, ***rejected***.

20. A cost of Rs.25,000/- is hereby imposed on the applicant **Nikhil Kumar, S/o Late Surender Pal Singh, R/o D-110, Ground Floor, Vivek Vihar, Phase-I, Delhi-92, East Delhi**, which shall be deposited in the account of High Court Legal Services Authority, within a period of two weeks from

today and the receipt thereof shall be filed before this Court by the next date fixed.

21. List on **9.12.2025** in the daily cause list among top ten cases before this Court for compliance.

(Krishan Pahal,J.)

November 24, 2025

Vikas Verma