

# Dasari Raja Shekar Shekar vs The State Of Telangana on 13 March, 2025

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

CRIMINAL PETITION No.15399 OF 2024

O R D E R:

This Criminal Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (for short 'BNSS') by petitioner/accused No.1 to quash the order, dated 07.12.2024, passed by learned Sessions Judge, at Nizamabad, in CrI.MP.No.642 of 2024 in CrI.MP.No.455 of 2022 in Crime No.67 of 2022 on the file of Station House Officer, Police Station Morthad.

2. Heard Mr. Kondadi Ajay Kumar, learned counsel for petitioner and Mr. Surepalli Prashanth, learned Assistant Public Prosecutor for respondent-State.

3. A challenge is made to order, dated 07.12.2024, passed in CrI.MP.No.642 of 2024 in CrI.MP.No.455 of 2022 in Crime No.67 of 2022 by learned Sessions Judge, at Nizamabad, wherein a petition filed under Section 439(2) Cr.P.C. to cancel the bail granted to petitioner herein was allowed.

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4. It is the specific case of petitioner that cancellation of bail of petitioner/accused No.1 (Dasari Raja Shekar) on the ground that he threatened PW.6/LW.9 Vanam Ramu not to come to Court to depose the evidence against him is false and baseless. It is further the case that learned Sessions Judge by order, dated 07.12.2024, cancelled the bail granted to petitioner by misconstruing the facts and failed to appreciate the entire issue in proper perspective.

5. It is submitted on behalf of petitioner/accused No.1 that witnesses PWs.1 to 5 were examined on various dates and that PW.6/LW.9 was examined on 23.09.2024. The depositions of witnesses i.e., PWs.1 to 6 are placed on record vide memo USR No.28058/25, dated 12.03.2025. It is further submitted that, on perusal of the depositions of the witnesses (PWs.1 to 6), no case is made out, of the allegation of witnesses being threatened. It is also submitted that the trial Court disbelieving the version of petitioner/accused No.1 cancelled the bail. It is submitted that the brother of deceased cleverly managed to get the JAK, J CRLP\_15399\_2024 bail cancelled. It is pointed out that the facts pleaded before the trial Court for cancellation of bail are baseless.

6. It is submitted that for cancellation of bail granted, cogent and overwhelming circumstances are necessary and no such circumstances are made out. It is further submitted that the learned Judge committed an error in not construing the facts and law in proper perspective. It is also submitted that the bail granted was cancelled in a mechanical manner without application of mind.

7. On the other hand, learned Assistant Public Prosecutor for respondent-State submitted that learned Sessions Judge rightly cancelled the bail granted for cogent reasons. It is further submitted that petitioner/accused No.1 threatened the witness PW.6 (LW.9) and contravened the conditions imposed for grant of bail. It is also submitted that brother of the deceased lodged a complaint against petitioner/accused No.1, and Police registered Crime No.121 of 2024 under Sections 351 and 232 of BNS. It is urged that that no interference is necessitated as JAK, J CRLP\_15399\_2024 threatening a witness not to depose evidence is a serious offence and the very concept of fair trial is hit.

8. Heard learned counsels, perused the record and considered the rival submissions.

9. An FIR bearing No.67 of 2022 was registered on 02.08.2022 on the basis of complaint made by one Shri Jagannadh Gandaiah under Section 174 of Cr.P.C. (suspicious). A Charge Sheet was filed under Sections 302 and 201 read with Section 34 of IPC. Petitioner herein is accused No.1. The brother of the deceased filed a complaint on the ground that one of the witnesses i.e., Vanam Raju (PW.6/LW.9) was threatened by petitioner not to depose evidence against him. On the basis of the said complaint, a crime bearing No.121 of 2024 was registered under Sections 351 and 232 of BNS. A petition was filed in the Court of Principal District and Sessions Judge, at Nizamabad, by the State. Crl.MP.No.642 of 2024 in Crl.MP.No.455 of 2022 in Crime No.67 of 2022 is filed under Section 439(2) of Cr.P.C. for cancellation of bail of petitioner/accused No.1.

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10. Before delving any further, it is pertinent to extract the contents of the document, a request for cancellation of bail (document annexed at page No. 54) which throws light on certain events. The relevant extract is as follows:

"With reference to the above subject cited, it is to submit that the Hon'ble Court has granted bail to the accused persons A-1 to A-5 in the Cr.No.67/22 U/s 302, 201 read with 34 IPC (S.C.No.59/2023) of PS Morthad and they released on bail. The Hon'ble Court has issued summons to witnesses by fixing trial from 01.10.2024 onwards. After completion of service of summons to witnesses, the accused Dasari Rajashekhar came to know that summons are served to the witnesses and approached the LW- 06 Vanam Ramu and threatened to see his end, and he held panchayath in caste elders, if he comes to the Hon'ble Court to depose his evidence against him. Due to which the accused has created panic among the witnesses by way of threatening. As such all the witnesses are scared of the accused A-1 and there is every possibility of turning hostile or they may not come to the court to depose their evidence.

In this regard Deceased brother Jagannath Sai Baba came to PS lodge a petition I registered a case in Cr.No.121/24 u/s 351, 232 BNS took up the investigation.

It is respectfully submitted that due to acts of the accused A-1, all the witnesses are fear of the accused and they may turn hostile or not come to the Court. It is necessary

to create confidence among the witness to come to the Court to depose evidence without fear and hesitation."

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11. The contents of this document assume importance as it is stated in the request, that witness PW.6/LW.9 (Vanam Ramu) was threatened not to depose, that the petitioner/accused No.1 would see his end, and in this regard a panchayath was held among the elders.

12. Learned counsel for petitioner placed on record depositions of witnesses i.e., PWs.1 to 6, who were examined on various dates. PW.1/LW.1 was examined on 11.06.2024. PW.2/LW.3 was examined on 17.09.2024. PW.3/LW.4 was examined on 17.09.2024. PW.4/LW.6 was examined on 18.09.2024. PW.5/LW.2 was examined on 23.09.2024.

13. PW.6/LW.9 was examined on 23.09.2024, his chief examination was further deferred at request. It is after the deferment of chief examination, certain events took place. An FIR came to be lodged and a request was made for cancellation of bail of petitioner/accused No.1. A crime was registered in crime No.121 of 2024 under Sections 351 and 232 of BNS.

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14. Learned Sessions Judge by order, dated 07.12.2024, cancelled the bail granted to petitioner. Learned Judge considered the pleadings in the counter affidavit filed by petitioner/accused No.1 and the contentions raised by Public Prosecutor. The following is the relevant portion of order, dated 07.12.2024:

"In Dolat Ram v. State of Haryana 1, the Hon'ble Supreme Court held: "Rejection of bail in a non- bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, 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 the trial."

6) Perusal of the material placed on record shows that the respondent/A1 contravened the conditions (1995) 1 SCC 349 JAK, J CRLP\_15399\_2024 imposed by this Court by threatening PW6/Vanam Ramu and that the brother of deceased lodged complaint against the respondent/A1

upon which, the police Morthad registered a case in crime No.121 of 2024 under Section 351, 232 BNS. The witnesses who came to the Court also informed that the respondent is threatening them not to give evidence. Therefore, in the said situation, in order to create confidence among the witnesses to come to the court to depose evidence without fear and hesitation the bail may be cancelled. The circumstances shown by the prosecution are justifying for cancellation of the bail granted to the respondent/A1.

7) Accordingly, the petition deserves to be allowed and is allowed. The bail granted to the respondent/A1 by this Court on 08.11.2024 in CrI.MP.No.455 of 2022 is hereby cancelled and the concerned SHO is at liberty to arrest the respondent/A1."

15. In paragraph No.6, the trial Court in its order observed as follows:

"The witnesses who came to the court also informed that respondent is threatening them not to give evidence. Therefore, in the said situation, in order to create confidence among the witnesses to come to the court to depose evidence without fear and hesitation, the bail may be cancelled."

16. The trial Court further held that circumstances shown by prosecution are justifiable for cancellation of bail of petitioner/accused No.1.

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17. Learned counsel for petitioner relied upon the judgment of Hon'ble Apex Court in X v. State of Telangana 2 and contended that accused cannot be deprived of his liberty/freedom and the cancellation of bail is not proper. The relevant portion of the judgment relied upon is as follows:

"14. In a consistent line of precedent this Court has emphasised the distinction between the rejection of bail in a non-bailable case at the initial stage and the cancellation of bail after it has been granted. In adverting to the distinction, a Bench of two learned Judges of this Court in Dolat Ram v. State of Haryana [Dolat Ram v. State of Haryana, (1995) 1 SCC 349 : 1995 SCC (Cri) 237] observed that : (SCC pp. 350-51, para 4) "4. Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are : interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have (2018) 16 SCC 511 JAK, J CRLP\_15399\_2024

rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial."

18. In the judgment of the Apex Court (supra) broad grounds for cancellation of bail are spelled out which are relevant to the facts and circumstances of the present case. It is settled principle of law that bail once granted should not be cancelled, unless cogent and overwhelming circumstances are shown, based on a supervening event(s). In the present case, petitioner/accused No.1 threatened PW.6/LW.9 Vanam Ramu. Reliance is placed on depositions of witnesses i.e., PWs.1 to 6 and contended that none of the witnesses deposed that petitioner/accused no.1 threatened them.

19. Deposition of witness PW.6/LW.9 (chief examination) was on 23.09.2024, further chief examination was deferred at request. It is this witness who was threatened, a complaint was lodged, crime registered, a petition was moved for cancellation of bail. It is evident from the document annexed at page No.54 that petitioner/accused No.1 approached PW.6 and threatened him not to depose JAK, J CRLP\_15399\_2024 evidence against him and that a panchayat before caste elders was held with regard to the same. It is not the case of respondent State that petitioner/accused No.1 threatened all the witnesses, there is a specific statement that petitioner/accused No.1 approached PW.6/LW.9 (Vanam Ramu) and threatened to see his end, even a panchayath was held.

20. The contention of learned counsel for petitioner is that a false case is foisted by the brother of the deceased to get the bail cancelled. It belies the logic of this Court to accept such a contention. The brother of the deceased had the option to lodge a complaint at any point of time, much prior to getting the bail cancelled, even if assumed, it is a false complaint. But, it is only after the event of threatening PW.6/LW.9, a complaint was lodged and a crime registered, no explanation is offered for this. The trial Court, considering the version of Public Prosecutor and the averments in the counter affidavit filed by petitioner, cancelled the bail.

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21. An accused if granted bail, shall not threaten the witnesses. Bail is granted to an accused in the facts and circumstances of a case, taking into consideration the liberty/freedom. The accused has to abide by the conditions of bail. A primary condition imposed, while grant of bails, is that the accused shall not in any manner threaten any of the witnesses. If the accused threatens any of the witnesses in any manner not to depose, then the very purpose of a fair trial would be hit.

22. This Court is conscious of the fact that bail once granted cannot be cancelled in a mechanical manner. Interference or attempt to interfere with the due course of administration of justice by threatening the witness is a cogent and overwhelming circumstance for cancellation of bail.

23. This court cannot lose sight of the fact that witness PW.6/LW.09 (Vanam Ramu) was threatened not to depose, that the petitioner/accused No.1 would see his end, and in this regard a panchayath was held among the elders. Suffice to state that threatening a witness not to depose, JAK, J CRLP\_15399\_2024 that petitioner/accused no.1 would see the end is a cogent and overwhelming circumstance for cancellation of bail. Principle of fair trial is the bedrock of a just and equitable

criminal justice system. Threatening a witness goes to the root of the case, threatening a witness results in an unfair trial.

24. No perversity or illegality is demonstrated in the order. The petition is devoid of merits and is liable to be dismissed.

25. For reasons aforesaid, the Criminal Petition stands dismissed.

Miscellaneous applications pending, if any, shall stand closed.

\_\_\_\_\_ ANIL KUMAR JUKANTI, J Date: 13.03.2025 KRR