

Court No. - 65

Case :- CRIMINAL MISC. BAIL CANCELLATION APPLICATION No. - 130 of 2022

Applicant :- Haribansh Dubey

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Anita Singh, Mohd. Sarwar Khan

Counsel for Opposite Party :- Bal Mukund Singh, Dinesh Kumar Misra, G.A., Shri Prakash Mishra

Hon'ble Krishan Pahal, J.

1. List has been revised. No one is present on behalf of applicant to press the instant bail cancellation application. Sri Bal Mukund Singh, learned counsel for opposite party no.2 and Sri Pranshu Kumar, learned A.G.A. are present. Under the circumstances, I myself have perused the record.

2. The present bail cancellation application has been filed to set-aside the bail order dated 27.04.2020 granted to opposite party no.2 with regard to Case Crime No.51 of 2019, under Sections 147, 148, 149, 307, 302, 504, 506 and 34 I.P.C. and Section 7 of Criminal Law Amendment Act, Police Station- Shahganj, District- Jaunpur in Criminal Misc. Bail Application No.48568 of 2019.

3. The instant bail cancellation application was filed on 30.03.2022. On the previous date i.e. on 18.07.2025, none was present on behalf of the applicant. On 11.01.2024, case was adjourned on the request of learned counsel for the applicant. On 15.09.2023 also, the case was adjourned on the illness slip of learned counsel for the applicant. None is present on behalf of the applicant today even in the revised call.

4. It is observed by this Court that advocates are not appearing in majority of listed cases that too on multiple dates. Non-appearance of the counsel for the applicant amounts to professional misconduct. It also tantamount to *bench hunting or forum shopping*.

5. The Supreme Court in ***Ishwarlal Mali Rathod v. Gopal, (2021) 12 SCC 612*** has categorically held that courts shall not grant the adjournments in routine manner and mechanically and shall not be a party to cause for delay in dispensing the justice. It was also opined that the courts have to be diligent and take timely action in order to usher in efficient justice dispensation system and maintain faith in rule of law.

6. Mere pendency of the bail cancellation application cannot accrue any right in

favour of the applicant. It cannot be allowed to swing years together in the cloak of pendency. The applicant cannot be permitted to dilute the stream of justice by repeatedly remaining absent from judicial proceedings without any reasonable explanation. Absence of any reason for non-appearance is blatant abuse of process of law, even though the order is available on the website of the High Court.

7. The resources of the Court which includes precious judicial time are scarce and already stretched beyond elastic limits. Valuable Court time, which is required to be engaged in adjudication of serious judicial action, is wasted on frivolous and vexatious litigation which is misconceived and is an abuse of the process of law. A judicial system has less than sufficient resources to afford justice without unreasonable delay to those having genuine grievances. Therefore, increasingly, the Courts have held that totally unjustified use of judicial time must be curbed and the party so wasting precious judicial resources, must be required to compensate not only the adversary but also the judicial system itself.

8. A Division Bench of this Court in **Ashwani Kumar Srivastava v. D. Sen Gupta Chairman-Cum-Managing Director, New India Assurance Co. Ltd., Bombay, 2008 SCC OnLine All 723** has categorically expressed in para-22:

"22. Learned Advocates being officers of the Court owe a duty not only to the Court but to their clients also in getting the cases decided expeditiously so as to achieve the objective of dispensation of justice. The time of the Court is precious for the reason that it is public's time and must be utilised for adjudicating matters which have substance and need to be decided at the earliest. The arm of justice must reach the aggrieved person dispensing justice speedily. If time of the Court is consumed, and that too, a lion's share, by frivolous and bogus litigation, it is bound to take away the time which could have been utilised for really needy litigants. The time has come when the learned members of the Bar should rise to the occasion and discourage frivolous and bogus litigation by telling their clients that they would not be a party to such kind of litigation. Frivolous litigation only adds burden on the Court and deprives real litigants from the shower of justice at a time when he really needs it. Needless to say, it would be healthier for institution in particular and public at large and this pious institution would be able to achieve its constitutional obligation of dispensation of justice in deserving cases with greater pace."

9. It appears that the applicant has lost interest in pursuing the matter. Therefore, by the efflux of time, it seems to have been rendered infructuous. The bail once granted cannot be cancelled at the drop of pen, there must be clinching evidence of its misuse or some other concealment of fact.

10. There are several instances where a person granted bail may have the bail cancelled. They are:

- (i) Where the person during the period of bail, commits the very same offence for which he is being tried or has been convicted, and thereby proves utterly unfit, to be on bail.
- (ii) If he hampers the investigation;
- (iii) If he tampers with the evidence, as by intimidating the prosecution witnesses, interfering with the scene of offence to remove traces or proofs of the crime, etc.;

- (iv) If he runs away to a foreign country, or goes underground, or beyond the control of his sureties;
- (v) If he commits acts of violence, in revenge, against the police and the prosecution witnesses and those who have booked him or are trying to book him;
- (vi) The earlier order was illegal and perverse therefore must be set aside; and
- (vii) The said order was taken by suppressing relevant facts.

11. The instant case does not fall under the any of the aforesaid categories.

12. In view of the aforesaid facts and circumstances, this Court declines to entertain this bail cancellation application. The application is, accordingly, ***rejected***.

13. The Registrar (Compliance) is directed to communicate this order to the concerned Court/authority for necessary information and compliance, forthwith.

Order Date :- 28.7.2025

Sumit S

(Justice Krishan Pahal)