

(2026) 01 KAR CK 0975

In the Karnataka High Court, Principal Bench

Case No : Criminal Petition No. 16900 Of 2025

**Central Bureau Of Investigation Anti-Corruption Branch Rep. By Special
Public Prosecutor 36, Bellary Road, KGH Layout Ganganagar Bengaluru -
560032**

Date of Decision : 27-01-2026

Acts Referred:

Citation : (2026) 01 KAR CK 0975

Hon'ble Judges : S. Sunil Dutt Yadav, J

Bench : Single Bench

Advocate : C.V. Nagesh, P. Prasanna Kumar, Rahul Krishna Reddy P

Final Decision : Dismissed

Judgement

S Sunil Dutt Yadav, J

CAV

1. The petitioner has filed the present petition seeking to be released on Regular Bail in connection with his custody pursuant to the proceedings pending in Spl.CC No.565/2021.

The proceedings are pending in relation to case registered with respect to the offences under Section 120B r/w 302, 201, 143, 147, 148 r/w 149 of IPC, Section 25 r/w 3, 5, 8 and 29 of the Arms Act before the LXXXI Additional City Civil & Sessions Judge at Bengaluru (CCH-82).

2. It is to be noticed that the petitioner had moved an application seeking to be enlarged on bail before the Trial Court and the Court has rejected the application of the petitioner seeking to be enlarged on bail.

3. The brief facts made out are that Crime No.135/2016 was registered by the Sub-Urban Police Station against unknown persons on 15.06.2016 on the basis of information made out by Smt.Mallavva Goudar, W/o Late Yogish Goudar as regards the incident in which her husband was stated to have been done to death by unknown assailants.

4. The facts made out are that charge sheet was filed against six accused persons for the offences under Section 120B r/w 302, 201, 143, 147, 148 r/w 149 of IPC.

5. It is further made out that evidence was completed and the case was at the stage of arguments when the matter was entrusted to CBI. The CBI renumbered the Crime as No.RC.17(S)/2019/CBI/ACB/BLR for certain offences and took up further investigation on 24.09.2019. The CBI had filed first additional charge sheet against accused nos.1 to 14 for the offences under Section 120B r/w 302, 201, 143, 147, 148 r/w 149 of IPC. The CBI had filed the second additional charge sheet including against the petitioner for the offences under Section 120B, 143, 147, 148 r/w 149, 302 of IPC and under Section 25 r/w Section 3, 5, 8 and 29 of the Arms Act.

6. It is made out from the facts that the accused was arrested and later enlarged on bail by the Apex Court by order passed in SLP (Criminal) No.4739/2021. Subsequently, though an application was moved for cancellation of bail before the Trial Court, the same was dismissed on the ground of maintainability. Eventually, SLP (Criminal) 7865/2025 came to be allowed and the bail granted earlier came to be cancelled. It is stated that the petitioner had surrendered before the Trial Court on 13.06.2025.

7. Learned Senior Counsel Sri.C.V.Nagesh appearing on behalf of the petitioner would submit that all material witnesses have been examined and it is only the evidence of official witnesses that remains. It is further asserted that the petitioner was granted bail before the Apex Court on 11.08.2021 and had enjoyed the benefit of bail till said bail came to be cancelled on 06.06.2025 and accordingly had enjoyed relief of bail for a period of about 04 years.

8. It is submitted that the petitioner had influenced the prosecution witnesses PW's.25 and 26 and it is in such context that bail was cancelled. It is submitted that evidence of the said witnesses is now complete and all of the important witnesses have completed their evidence. It is also submitted that none of the eyewitnesses have supported the case of the prosecution and that by itself would be a 'change in circumstance' warranting grant of bail.

9. It is further submitted that the offence as made out against the petitioner is only regarding conspiracy which is not a standalone offence and in the absence of evidence regarding commission of the offence, the case regarding conspiracy would stand on weak footing. It is further submitted that the petitioner is a three time Legislator and has no antecedents.

10. It is also submitted that the petitioner is entitled to be enlarged on bail on the ground of parity as the other co-accused whose bail was also cancelled on the ground of violation of bail conditions had the benefit of bail order restored by orders passed by the High Court. Accordingly, it is submitted that on the principle of parity as well, the petitioner is entitled to be enlarged on bail.

11. Reliance is placed on the order passed in Vipin Kumar v. State of U.P. CrI.A 726/2025 arising out of SLP (CrI) No.17918/2024 and it is submitted that the Apex Court has clarified that once an order granting bail is set aside, there is no prohibition to file a fresh application for bail. Accordingly, it is submitted that though bail granted by the Apex Court was cancelled by the Apex Court itself, by virtue of change in circumstances, a fresh bail application ought to be entertained.

12. Learned Counsel Sri.P.Prasanna Kumar appearing for respondent-CBI would submit that there are certain other witnesses who are still to be examined and has filed a memo regarding the intention of respondent-CBI to examine Sri.Motilal Ramaswamy Pawar (CW.124), Sri.P.Gopalakrishnan, Programmer, TAFSU (CW.30), Sri.Rakesh Ranjan P.I. & I.O. of the case who had filed the charge sheet. However, it is vehemently submitted that the cancellation of bail by the Apex Court has disentitled the petitioner to seek fresh bail as the Apex Court has not reserved liberty to seek for fresh bail.

13. It is further submitted that the order passed in Vipin Kumar's case must be understood in the context of the particular factual matrix. It is submitted that observations made were in the context of bail granted by the High Court and set aside by the Apex Court and the observation is made to the effect that a fresh bail application could be filed. However, it is submitted that the present case deals with a different factual matrix where bail granted by the Apex Court has been cancelled by the same court on the ground of violation of conditions of bail. It is submitted that the observations made therein cannot be extended to the present case.

14. It is specifically contended that the Apex Court in the case of Rajesh Ranjan Yadav @ Pappu Yadav v. CBI through its Director (2007) 1 SCC 70 has taken note of status of elected representatives while observing that such status may be 'wholly irrelevant', and that mere completion of evidence of the prosecution witnesses would not also be a relevant factor when the allegations against the petitioner are serious.

15. The Trial Court was approached by the petitioner at the first instance and petitioner had sought to be enlarged on bail. After detailed consideration, the trial court has rejected the application on various grounds. The trial court has rejected the contention of the petitioner who has claimed parity with the co-accused who have been enlarged on bail. The trial court has observed that parity cannot be the sole criteria. The trial court has also accepted the contention of the respondent-CBI regarding possibility of tampering. Finally, the Trial Court had observed that where bail was granted by a superior Constitutional Court and subsequently such bail granted was cancelled, the Trial Court could not enlarge the petitioner on bail.

16. Heard both sides.

17. At the outset, it must be noticed that the Apex Court had enlarged the

petitioner on bail by order dated 11.08.2021. Prior to such order, the request of the petitioner for being enlarged on bail came to be rejected by the other courts. The operative portion of the order granting bail which would indicate the conditions imposed are extracted below:

"Considering the facts and circumstances on record, we deem appropriate to pass the following directions:

I. The appellant shall be produced before the concerned Trial Court within three days from today and the Trial Court shall release the appellant on bail on such conditions as the Trial Court may deem appropriate to impose. Such conditions shall however include the following:

i. The appellant shall not in any way impede the conduct and proceedings of the investigation and the trial;

ii. The appellant shall not directly or indirectly get in touch with any of the witnesses nor shall he try to influence any such witnesses.

iii. The appellant shall not enter the District Dharwad till further orders to be passed by the Trial Court.

iv. The appellant shall mark his presence in the office of ACP CBI Unit, Bengaluru, twice a week.

II. Any infraction or violation of the above conditions shall entail in cancellation of bail.

Needless to say that grant of bail in favour of the appellant shall not be construed as reflection by this Court on merits of the matter, which shall be gone into independently by the Trial Court at every stage of the proceedings.

With the aforesaid directions, the appeal is allowed."

18. An application was moved for cancellation of bail before the Trial Court which came to be rejected and SLP (Criminal) 7865/2025 came to be filed which was eventually allowed and the bail granted to the petitioner herein came to be cancelled. The Apex Court in its order dated 06.06.2025 had observed that there was sufficient material on record that attempts have been made by the petitioner to either contact witnesses or alternatively, influence such witnesses.

19. The observation made at Para 19 would be of relevance and is extracted below:

"19. Therefore, keeping in mind the totality of circumstances, this Court is of the considered opinion that the bail granted to the Respondent ought to be cancelled. Consequently, the bail granted to Accused No. 15 i.e., the Respondent is hereby cancelled. The Respondent shall surrender before the concerned trial court / jail authority within a period of 1 (one) week from today. However, we deem it appropriate to direct the Learned Trial Court to make endeavours to conclude the trial expeditiously, without being influenced by any of our observation(s)."

20. The question that requires to be answered is, whether petitioner could have approached the trial court seeking for enlargement on bail considering that the bail granted to the petitioner by the Apex Court was cancelled by the Apex Court itself without reserving liberty ?

21. Admittedly, the bail was granted by the Apex Court by order dated 11.08.2021 and conditions were imposed as extracted above. The condition No.I (ii) provided that the appellant shall not directly or indirectly get in touch with any of the witnesses nor shall he try to influence any such witnesses. Further it is provided at condition No.II that any infraction or violation of the above conditions would entail in cancellation of bail.

22. It is necessary to note that cancellation of bail by the Apex Court as per the order of the Apex Court in SLP (Criminal) 7865/2025 vide order dated 06.06.2025 and the ground on which the order came to be passed was "... it would be suffice to state that there is sufficient material on record to suggest that the attempt(s) have been made by the respondent to either contact witnesses or alternatively, influence such witnesses."

23. Further, while cancelling bail and directing the petitioner herein to surrender, it was observed as follows:

"However, we deem it appropriate to direct the learned Trial Court to make endeavours to conclude the trial expeditiously, without being influenced by any of our observation(s)."

24. The following becomes clear:-

- i) Cancellation of bail was on the basis that attempt was made to contact or influence the witnesses.
- ii) The order cancelling bail did not reserve liberty to approach again.
- iii) The direction to complete trial expeditiously would in fact indicate that there was the intention of the Apex Court to mitigate the long incarceration by directing speedy conclusion of the trial.

While 'change in circumstances' could be a ground for re-approaching the court seeking fresh bail where an application is rejected on merits, however the same logic cannot be extended in cases where the bail granted is cancelled due to violation of conditions.

25. The grant of bail has an element of exercise of judicial discretion, though premised on liberty based rights. While no doubt the foundation of bail jurisprudence is on the bedrock of 'Bail is the rule and Jail is the exception', however a balance is struck with the societal concerns of the 'crime against society' by denying bail till certain stages of trial to secure an uninfluenced trial. The courts evaluate the risk of tampering of evidence by way of potentiality to influence the witnesses and may either deny bail till they are examined, or release them on bail after imposing suitable conditions. While allowing the

accused to be enlarged on bail, it is but expected that the condition imposed is to be adhered to. The orders that enlarge the accused on bail also provides for cancellation of bail in the event of violation of the conditions. Such condition is a normal condition imposed which in effect seeks to pre-empt the misuse of an order which had enlarged the petitioner on bail and secured his liberty subject to adherence to certain conditions.

26. The case of cancellation of bail is to be looked at differently unlike an order of setting aside the order of bail granted by a court subordinate in its hierarchy. The considerations in setting aside an order of bail by a superior court are different and in contradistinction to the conditions taken note of while cancelling an order of bail granted by the same court or any other court on the premise of violation of conditions imposed. In the present case, this court is dealing with the latter case.

27. The ground of 'change in circumstances' may be a ground for reconsideration of an order rejecting bail, but would be of no avail where the bail is cancelled for violation of conditions imposed. When the bail granted is cancelled for violation of bail conditions, the accused essentially disentitles himself of exercise of judicial discretion subsequently. The subsequent events of nearing completion of examination of witnesses are of no relevance.

28. In the present case, when the Apex Court has cancelled the bail on the ground of violation of conditions without reserving liberty, it would be against judicial propriety for any other court to reconsider and grant bail. The petitioner ought to have approached the Apex Court and sought for reconsideration, especially where the Apex Court had not reserved any liberty. By misuse of liberty granted, the petitioner had disentitled himself from claiming to be released on bail by relying on merits of claim of bail on any grounds. The accused is required to move the Apex Court itself for reconsideration.

29. The reliance placed by the petitioner on the observations in *Vipin Kumar v. State of U.P.* in CrI.A 726/2025 (arising out of SLP (CrI) No.17918/2024), requires consideration. The observations made at para 3 to 6 are of relevance and extracted below:-

"3. The earlier bail application of the appellant was allowed by the High Court vide order dated 03.10.2023. However, the said order was set aside by this Court. Thereafter, the appellant applied afresh for bail before the High Court and the said application was rejected solely on the ground that Supreme Court of India while cancelling the bail granted by the High Court, had not given any liberty to the appellant to file a fresh bail application.

4. There is no prohibition in filing a fresh bail application after the earlier was rejected or cancelled, if granted. This Court in cancelling the bail application has not taken away the right of the appellant to apply for bail afresh, if the circumstances permit.

5. Filing of a fresh bail application, once an earlier bail application has been rejected or if granted and thereafter cancelled is a matter of right and solely on the ground that the Apex Court had not permitted filing of the fresh bail application, the High Court was not justified in dismissing the bail application.

6. In view of the aforesaid facts and circumstances, the order impugned dated 31.05.2024 passed by the High Court rejecting the bail application of the appellant is hereby set aside and the matter is remanded to the High Court for decision afresh on merits."

30. In light of such observations, it is contended that the petitioner has rightly approached the Trial Court in light of changed circumstances and the application ought to have been considered.

31. It is to be noticed that in Vipin Kumar (supra), the accused in the above mentioned case was initially enlarged on bail by the High Court. The said order came to be challenged before the Apex Court and bail granted by the High court in terms of the order passed in the case of Deepanshu v. State of U.P. and Another Crl.A 121/2024 arising out of SLP (Criminal) No. 15608/2023 was set aside.

32. The challenge to the bail granted, was supported by the State contending that bail was undeservedly granted. The said bail order was set aside observing that the bail order was granted by a cryptic order and that the accused was the threatening the victim's family.

33. In the second round, the fresh bail application was filed which was rejected as not being maintainable and the Apex Court had clarified as per the observations made which are extracted as above at Para 29.

34. It must be noticed that the observations made in Vipin Kumar (supra) was that the bail granted by the High Court was set aside by the Apex Court. Essentially it was a decision of reversal of an order granting bail being passed by a superior court. Such order would still permit approaching the trial court 'if circumstances permit' viz., where fresh circumstances for grant of bail are made out. Such observations are to be construed in the context of bail being granted by an order on merits and cancelled by a superior Court.

35. However, such observations cannot be extended to a case as in the present where bail granted has been cancelled by the Apex Court on the ground of violation of bail conditions.

36. The distinction between reversal of an order of bail by the superior Court and cancellation of bail for violation of bail conditions is stark and must be maintained.

37. Once an order is made in the former case, approach on fresh grounds would be permissible, but in the latter case the accused is to seek for fresh indulgence for reconsideration.

38. The words 'granted and thereafter cancelled' thus in Vipin Kumar (supra) must be read in the context of the order. Accordingly, this Court holds that the petitioner is to re-approach the Apex Court and make out an appropriate case instead of the current exercise of having approached the trial Court and this Court once again.

39. In light of the above, it would be impermissible to enter into other contentions raised by the petitioner including that the subsequent events of completion of examination of important witnesses by itself ensuring absence of opportunity to tamper with the witnesses being a ground to enlarge the petitioner on bail cannot be considered. Further, other contentions raised by the petitioner including that of release of co-accused on parity by this court cannot be taken benefit of by the petitioner as the petitioner's bail was granted and cancelled by the Apex Court.

40. The question of entering into the contention by the respondent that the petitioner has tampered with witnesses and is ineligible for claim to be released on bail also need not be entered into in light of the view expressed above that it would be appropriate for the petitioner to approach the Apex Court itself.

41. Accordingly the petition is rejected subject to the above observations. All contentions by the petitioner regarding the grounds made out for him to be enlarged on bail are kept open.

42. It is made clear that the court has not recorded any finding regarding the merits of the claim and has merely disposed of the petition holding that petitioner is required to have approached the Apex Court itself.