THE HIGH COURT OF ORISSA: CUTTACK

No. XI-36/2025/16058(30)**/ Dated**08/10/2025

From;

Asanta Kumar Das,
Registrar General

To,

The District & Sessions Judge,..... (All)

Sub.: **Forwarding the Order dated 02.09.2025 passed in Criminal Appeal No.3830 of 2025 (arising out of Special Leave Petition (Crl.) No.9082 of 2025) titled "*Phireram Vrs. State of U.P. & Anr.*" relating to protection of witnesses from intimidation and harassment during ongoing trials while handling bail applications**

Sir/Madam,

With reference to the subject cited above, I am directed to forward herewith a copy of the Order dated 02.09.2025 passed in Criminal Appeal No. 3830 of 2025 (arising out of Special Leave Petition (Crl.) No.9082 of 2025) titled "*Phireram vs. State of U.P. & Anr.*" relating to protection of witnesses from intimidation and harassment during ongoing trials, especially in the context of handling bail applications, for your information and to request you to communicate the same to all the Judicial Officers working in your respective judgeships for their information and necessary guidance.

This is for favour of your kind information.

Yours faithfully,

ASANTA KUMAR DAS
Digitally signed by ASANTA KUMAR DAS
Date: 2025.09.29 18:18:43 +05'30'

REGISTRAR GENERAL

Encl.: *As above.*

Through e-mail

OFFICE OF THE DISTRICT JUDGE, GANJAM, BERHAMPUR.

e-mail: dsj.ganjam-od@indiancourts.nic.in

Memo No. 12681(67)/ ***dtd.*** 10/10/2025

Copy forwarded to: -

1. The Member, 2nd. MACT (SD), Berhampur
2. The Judge, Family Court, Berhampur
3. The Spl. Judge (Vig.), Berhampur
4. The Additional District Judge-cum-Spl. Court under POCSO Act, Berhampur
5. The Ad-hoc Additional District Judge, (FTSC) under POCSO Act, Berhampur
6. The Presiding Officer, Designated Court under OPID Act, Berhampur
7. The 1st /2nd/ 3rd Addl. District Judge, Berhampur
8. The Addl. District Judge (LR & LTV), Berhampur
9. The Additional District Judge, Aska / Bhanjanagar / Chatrapur / Khallikote / Kodala
10. The Chief Judicial Magistrate, Ganjam, Berhampur
11. The Addl. Chief Judicial Magistrate, Berhampur
12. The ASJ-cum-Registrar, Civil Courts, Berhampur
13. The Civil Judge (Sr. Divn), Berhampur
14. The Civil Judge (Sr. Divn.), Aska/ Bhanjanagar / Chatrapur/ Hinjilicut/ Khallikote/ Kodala/ Purushottampur/ Sorada/ Digapahandi
15. The Civil Judge (Sr. Divn.) (Commercial Court), Berhampur
16. The 1st/ 2nd Additional Civil Judge (Sr. Divn.), Berhampur
17. The Civil Judge (Sr. Divn.) (LR & LTV), Berhampur
18. The Civil Judge, Berhampur / The Civil Judge-cum-JMFC, Aska
19. The SDJM, Berhampur / Bhanjanagar / Chatrapur
20. The J.M.F.C(Rural) (Cog.Taking.), Berhampur
21. The JMFC Aska (Cog.) / Bhanjanagar / Buguda / Chatrapur / Digapahandi / Hinjilicut / Jagannathprasad/ Kabisuryanagar / Khallikote / Kodala / Patrapur / Polasara / Purushottampur / Seragada / Soroda / The Nyayadhikari, Gramnyayalaya, Sanakhemundi
22. The JMFC (Transport), Berhampur / All the JMFCs, Berhampur/ Aska
23. The Executive Assistant, District Court, Ganjam, Berhampur
24. The Court Manager, District Court, Ganjam, Berhampur
25. The Peshkar, District Court, Ganjam, Berhampur

    for information and necessary guidance.
26. The System Officer, District Court, Ganjam, Berhampur for information with a direction to upload the same on the Official Website of Ganjam Judgeship for general information.
27. Guard file.

Registrar,
Civil Courts, Berhampur.
10/10/2025

2025 INSC 1074

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 3830 OF 2025

[Arising out of Special Leave Petition (Crl.) No. 9082 of 2025]

PHIRERAM **…APPELLANT(S)**

VERSUS

STATE OF UTTAR PRADESH & ANR. **…RESPONDENT(S)**

O R D E R

Signature Not Verified
Digitally signed by CHANDRESH
Date: 2025.09.06 10:29:21 IST
Reason:

1. Leave granted.

2. This appeal arises from the order passed by the High Court of Judicature at Allahabad dated 11.04.2025 in Criminal Miscellaneous Bail Cancellation Application No.93 of 2025 (for short, the "**Impugned Order**"), by which the application filed by the appellant herein-the original complainant seeking to get the bail of the accused persons cancelled on the ground that they are administering threats to the witnesses came to be finally disposed of with some directions.

3. The Impugned Order being very short, we quote it as under: -

> *"1. The instant Criminal Misc. Bail Cancellation Application has been filed for cancellation of bail of accused/Opposite Party No.2 on behalf of complainant/First Informer in C.Cr.No. 137 of 2022 under Section 34, 302, 201, 120B, 34 IPC, Police Station - Surajpur, District - Gautam Budh Nagar.*
>
> *2. Heard learned counsel of complainant/First Informer and learned Government Counsel and perused file.*
>
> *3. It is the averment of learned counsel of complainant/first informer that bail has been granted to accused/Opposite Party No.2 on conditions mentioned in the bail order, but accused/Opposite Party No.2 has violated the conditions mentioned in the bail order. The complainant and his witnesses are being threatened by him. An application has also been filed by the First Informant before Police/Administrative officers in this regard.*

4. It is the averment of learned Additional Government Counsel that the complainant/first informer has this remedy/opportunity under the Witness Protection Scheme, 2018 and this application for cancellation of bail can be disposed of in the light of protection provided to the first informer/witnesses under the Witness Protection Scheme, 2018 instead of filing application for cancellation of bail.

5. Keeping in view the contentions of the learned Additional Government Counsel, it is the opinion of this court that because the complainant/First Informer has right to get protection under the Witness Protection Scheme, 2018, which has been allowed by the Hon'ble Supreme Court in Mahender Chawla and others Vs. Union of India reported in (2019) 14 SCC 615.

6. Accordingly, this application for cancellation of bail is finally disposed of with liberty that if the complainant/first informant files an application in prescribed form under Witness Protection Scheme, 2018 before the competent authority for the redressal of his grievances along with the certified copy of this order, then the application of the complainant/first informer will be heard immediately within a week by the competent authority and a legal decision will be taken thereon at the earliest/as early as possible within one month.

7. Accordingly, this application for cancellation of bail is finally disposed of."

4. It appears from the materials on record that the appellant herein-the original first informant, lodged the FIR bearing No.137 of 2022 with the Surajpur Police Station District Gautam Budh Nagar, U.P. for the offence punishable under Sections 302, 201, 364, 120-B read with 34 of the Indian Penal Code, 1860 (for short, "the **I.P.C.**").

5. The accused persons were arrested and thereafter were ordered to be released on bail by the High Court, subject to certain terms and conditions.

6. We take notice of the order passed by the High Court dated 29.04.2024 by which the High Court granted bail to the respondent no. 2 herein-the original accused. While ordering the release of the respondent no. 2 on bail, the High Court imposed the following conditions: -

> *"1. The accused will not tamper with the prosecution evidence during the course of investigation and trial.*
>
> *2. The applicant will not threaten/ intimidate the prosecution witnesses and victim / complainant.*
>
> *3. The applicant will follow the orders of the court. He will be present in the court on the date fixed for hearing and will not take adjournment unnecessarily and will co-operate the trial honestly.*
>
> *4. The applicant will not misuse the liberty of bail after being released on bail and will not take part in any criminal activity nor will commit any offence.*
>
> *5. The applicant will not lure or threaten any person or police officers familiar with the facts of the case directly or indirectly nor will make any promise to them due to which they have to refrain from revealing the facts in the court.*
>
> *In violation of any of the above conditions in the case, the trial court is at liberty to dismiss the bail of the applicant as per rules."*
>
> (Emphasis supplied)

7. It is the case of the appellant herein that thereafter, the respondent no.2 started administering threats to the witnesses.

8. We are also informed that two First Information Reports bearing nos. 262 of 2024 and 740 of 2024, respectively came to be lodged at the Surajpur Police Station, District Gautum Budh Nagar by the witness namely Chahat Ram to whom threats were being administered by the accused i.e. the respondent no. 2 herein.

9. In such circumstances, referred to above, the appellant went before the High Court with an application under Section 439 (2) of the Criminal Procedure Code, 1973 (for short the "**Cr.P.C.**") seeking cancellation of bail on the ground that the accused had violated the conditions imposed at the time of his release on bail.

10. We take notice of the fact that the High Court has passed a very curious order.

11. The High Court says that the remedy with the appellant as an aggrieved person being the original first informant is under the Witness Protection Scheme, 2018. In other words, what we have been able to understand from the bare reading of the impugned order

is that the High Court wants the appellant to avail the provisions of the Witness Protection Scheme, 2018 (for short, the "**Witness Protection Scheme**"). Having said so, the High Court declined to cancel the bail.

12. In such circumstances, referred to above, the appellant is here before this Court with the present appeal.

13. We heard Mr.Rishi Malhotra, the learned senior counsel appearing for the appellant, Mr. Vijendra Singh the learned counsel appearing for the State and Mr.Nitin Saluja, the learned counsel appearing for the respondent no. 2; the original accused.

14. The learned counsel appearing for the respondent no. 2 would submit that when the impugned order came to be passed by the High Court, his client was not before the High Court as no notice was issued to him.

15. On the other hand, the learned counsel appearing for the State, upon instructions from the Investigating Officer, who is personally present in the Court today submitted that the I.O. has found some substance

in the allegations levelled by the appellant as regards the administration of threats to the witnesses by the respondent no. 2.

16. We are of the view that the High Court should have decided the application seeking cancellation of bail on its own merits by applying the well settled Principles of law.

17. We take notice of the fact that the High Court while ordering release of the respondent no. 2 on bail, had itself observed that in the event of violation or breach of any of the conditions, the trial court would be at liberty to cancel the bail of the accused.

18. When it is an outright case of breach of the conditions of the bail order and when the original first informant is able to *prima facie* demonstrate in what manner the accused person is abusing the liberty granted to him, then, in such circumstances, the provisions of the Witness Protection Scheme, 2018 have hardly any role to play. This Scheme has nothing to do as such when the complainant seeks cancellation of bail on the ground of threats being administered to the witnesses.

SALUTARY OBJECT OF WITNESS PROTECTION SCHEME, 2018

19. We take this opportunity to explain the true scope and purport of the Witness Protection Scheme more particularly to make it clear that it is not an alternative to the provisions of the erstwhile CrPC and the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 in so far as cancellation of bail is concerned.

Legislative History

20. The concept that witnesses of a crime should be accorded protection is not novel, rather it has been a brewing byproduct of years of deliberation, and a widely accepted facet, considered to be essential to the fair functioning of any criminal machinery.

21. In ***Zahira Habibullah Sheikh* v. *State of Gujarat*** reported in **(2004) 4 SCC 158** it was observed that "*if the witness himself is incapacitated from acting as eyes and ears of justice, the trial gets putrefied and paralysed, and it no longer can constitute a fair trial*." Without protection and support, witnesses cannot discharge their solemn role, and criminal justice loses both its purpose and legitimacy.

22. Criminal justice rests upon the testimony of witnesses. It is they who bring before the court the truth of the events, the identity of the offender, and the sequence of acts which constitute the offence. The quality of justice depends to a large extent on the testimony of witnesses and unless witnesses are able to depose freely, the entire process would be reduced to futility. Without the testimony of witnesses, justice cannot be done. Delay, harassment, and intimidation cause a collapse of faith in criminal justice.

23. Yet, the plight of witnesses has long been a matter of serious concern. Over a period of years, it has been seen that witnesses are being harassed and threatened a great deal and many a time there is no adequate arrangements by the State for reassuring their confidence to speak the truth freely.

24. The need for a comprehensive framework for protection of witness had been echoed as early as 1958, more particularly in the 14th Report of the Law Commission of India, titled "*Reform of Judicial Administration*", wherein it took note of the concerning trend of harassment and intimidation of witness over the years. It expressed its anguish over a increasing pattern of witnesses turning hostile

under duress and intimidation that was resulting in a complete collapse of prosecutions in cases of grave and heinous offences.

25. Decades later, in 1996, the 154th Report of the Law Commission on the *Code of Criminal Procedure* lamented that, although "*witnesses are the most important factor in the criminal justice system*" yet, there exists no law "*for protecting them from harassment or threats*". It stressed that "unless the witnesses are protected, it would be difficult to expect them to come forward and depose truthfully."

26. A witness who is unable to depose freely is a liability, not an asset, to the system. A criminal justice system that cannot protect its witnesses cannot protect its citizens. A fair trial is not only the right of the accused but also of the victim and of society. The right to a fair trial is meaningless if the witnesses cannot come forward to depose without fear.

27. The Malimath Committee Report on Reforms of Criminal Justice System in 2003 expressed its concerns over how witnesses were being threatened and lured, particularly by accused persons enlarged on bail, which had the domino effect of many of them turning hostile. It

observed that protection of witnesses, is the duty of the State for without them, there can be no justice.

28. Several other reports of the Law Commission and other committees, time and again reiterated the growing need for a comprehensive framework on witness protection, and made a slew of recommendations for protecting witnesses not only from external threats but also from re-victimisation within the courtroom.

29. The 198th Report of the Law Commission in 2006, titled "*Witness Identity Protection and Witness Protection Programmes*", earmarked a watershed moment that emphatically asserted the pressing need for witness protection to enable them to depose without fear and to ensure that trials continue remain fair and not a farce. It recommended a comprehensive cohort of measures <u>for eradicating or neutralizing the effects of threats, intimidation and harassment that have entered the minds of the witnesses</u> (emphasis).

30. It was against this backdrop of reports, committee recommendations, and catena of decisions of this Court, that the Ministry of Home Affairs, formulated the draft Witness Protection Scheme, 2018. However, the scheme assumed the force of law, only after the

decision in the case of ***Mahender Chawla* v. *Union of India***, reported in **(2019) 14 SCC 615**, wherein this Court whilst recognizing that the Right to Fair Trial encompassed within its ambit the right of witnesses to depose fearlessly and without intimidation, exercised its powers under Article 142 to declare the draft Witness Protection Scheme as operative and binding.

The Witness Protection Scheme, 2018 is Curative in Nature

31. The reason for us to exhaustively discuss the legislative history, and the longstanding push by the various committees over a significant period of years for a witness protection scheme is to lay emphasis that, the promulgation of the Witness Protection Scheme, was not conceived as an alternative or substitute for the existing considerations or conditions for the grant or cancellation of bail, already enshrined in Section(s) 437 and 439 of the Cr.P.C., respectively.

32. The principle that individual liberty of accused and undertrial can be curtailed to ensure that his conduct does not interfere with the course of criminal justice existed even before the first report of the Law

Commission in 1958, that emphatically urged the pressing need for formulation of a witness protection scheme. Rather, as already discussed in the aforesaid, this push for a witness protection scheme gained momentum due to the alarming increase in the instances of witnesses turning hostile on account of threats, intimidation, and harassment, despite the sweeping provisions on cancellation of bail, if an accused person attempts to contact any of the witness.

33. In this regard, few observations of some of the committees is instructive. The 4th Report of the National Police Commission, as far back as 1980, had noted that the "*existing provisions regarding cancellation of bail are wholly insufficient to reassure witnesses who face social and economic pressures beyond the courtroom*." On similar lines, the Malimath Committee observed that despite bail cancellations and penal provisions, "*witnesses turn hostile because the system does not provide them the protective shield necessary to resist intimidation*." The Law Commission in its 154th Report remarked that "*the menace of intimidation has assumed dimensions far beyond the reach of provisions relating to bail and cancellation*".

34. The aforesaid observations underscore that a dedicated scheme on witness protection was a result of the imperative need to secure testimony, due to the psychological complexities of witness vulnerability, that the law on bail could not by itself address. If the witnesses are not able to depose freely, justice itself will be a casualty.

35. In ***Zahira Habibullah Sheikh*** (supra) this Court succinctly explained that while courts may cancel bail or issue directions restraining the accused, "*the majesty of the law is eroded if witnesses are not protected and are driven to silence by intimidation*." The emphasis was not merely on the formal power of the court to act against the accused, but on the lived reality of the witness who must continue to reside in the shadow of fear. Cancellation of bail could not remove that fear; only protection could.

36. The true purpose of the Witness Protection Scheme is to eradicate the corrosive effect that intimidation and threats, whether overt or covert, have upon the witness's ability to speak the truth fearlessly. It is to address the insidious psychological impact on the minds of witnesses and eliminate the climate of fear, that may cloud the testimony of the witnesses during trial.

37. There is a fine but pertinent distinction between the grant of bail and its cancellation on the ground of violation of the conditions of bail order and the affording of protection to a witness under the Scheme.

38. The Witness Protection Scheme is a remedial and curative measure, designed to neutralise the effects of threats once they have materialised. Bail cancellation, on the other hand, is a preventive and supervisory function of the criminal court, whose very duty it is to ensure that the trial proceeds unpolluted by intimidation. The former is a positive obligation of the State, whereas the latter is judicial in nature, flowing from the inherent power of the courts to ensure that justice is done under its watch.

39. The existence of a Witness Protection Scheme can by no stretch be a consideration to decline to cancel the bail, even when there is *prima-facie* material indicating that the accused administered threats or caused intimidation to the witnesses. To substitute one for the other is to denude the court of its authority and render the provisions of bail cancellation otiose and thereby make a mockery of the conditions imposed while granting bail. As then there could be no meaningful reason for imposition of conditions for grant of bail, if its violation,

that has the potency to pollute the streams of justice is simpliciter brushed aside on the pretext of some form of alternative remedy.

40. Bail is not to be understood merely as a mechanical order releasing a person from custody; it is, in substance, a judicial recognition that liberty is the norm and detention an exception, subject however to the overriding imperative that liberty should not be abused to thwart the course of justice. This Court in ***Gudikanti Narasimhulu* v. *Public Prosecutor, A.P.*** reported in **(1978) 1 SCC 240** and a catena of other decisions has emphasised that the discretion of granting bail is guided by considerations of likelihood of abscondence, tampering of evidence, and intimidation of witnesses.

41. When bail is granted, it is not an untrammelled licence to act as one pleases. The conditions imposed under Section(s) 437 sub-section (3) or 439 sub-section (2) of the Cr.P.C. are not mere *ad-libs*, they constitute substantive obligations upon the accused as-well as the courts granting the bail. The grant of bail is not a mere release but a conditional liberty. Before enlarging the accused on bail, the court is required to impose such conditions as necessary to meet the ends of justice and ensure a fair trial. Even after the release of the accused

person, the court retains the duty of supervision to revoke bail upon breach of the conditions on which the accused was released.

42. Violation of those conditions is a ground for cancellation of bail as a matter of duty enjoined upon the court who whilst enlarging the infracting accused on bail, allowed such violation to ensue under its watch.

43. As held in ***State* v. *Captain Jagjit Singh*** reported in **AIR 1962 SC 253** the considerations relevant for bail are not only with reference to the accused but also with reference to the larger interests of the public and the State.

44. The courts cannot abdicate its role on the pretext that since the State has a scheme for protecting witnesses, we shall not exercise our jurisdiction to cancel bail even though conditions have been violated.

45. The Witness Protection Scheme is applicable to offences which are punishable with death or life imprisonment or an imprisonment up to seven years and above and also offences punishable under Section(s) 354, 354A, 354B, 354C, 354D and 509 of the I.P.C., respectively. The protection granted by the Scheme is limited, it does

not address concerns of persons who are witness to offences other than the aforesaid. Whereas the net effect of cancellation of bail, when the accused person so released, violated any of the conditions imposed therein is two folds; *first,* it is a preventive and corrective measure aimed at ensuring that such infractions which have the propensity to seriously undermine a particular prosecution, is adequately prevented from happening again in the near future, by nipping in the bud, the root cause of such actions, and *secondly,* it is a measure that the courts are empowered to undertake, in view of the peculiar facts of each case and the attending circumstances, and is not confined to any particular threshold of offences or nature of witnesses, etc., it is the general sweeping powers of the court as the sentinel on *qui vive* and the custodian of the sword of justice.

46. The scope of the Scheme reflects its objective, that a witness to an offence must be able to depose before the court without fear or intimidation. At the same time, it acknowledges that the decision to extend protection is inherently subjective, to be taken upon a careful assessment of the vulnerability of the witness and the seriousness of the threat perception (emphasis). The same reads as under: -

> "*Scope of the Scheme:*

Witness Protection may be as simple as providing a police escort to the witness up to the Courtroom or using modern communication technology (such as audio video means) for recording of testimony. In other more complex cases, involving organised criminal group, extraordinary measures are required to ensure the witness's safety viz. anonymity, offering temporary residence in a safe house, giving a new identity, and relocation of the witness at an undisclosed place. However, Witness protection needs of a witness may have to be viewed on case to case basis depending upon their vulnerability and threat perception."

(Emphasis supplied)

47. From a bare perusal of the Scheme, it is evidence that the considerations for when the recourse to the Scheme may be taken by any witness is not contingent upon violation of a condition imposed on an accused during grant of bail or even during its pendency. This Court has time and again cautioned that due to the non-implementation of the scheme, many witnesses succumb to hostility.

48. In ***Hari* v. *State of U.P.*** reported in **(2021) 17 SCC 111**, this Court lamented that had the Witness Protection Scheme been implemented when the witnesses were deposing evidence in the said case, they would not have turned hostile. What needs to be noted here is that the scheme is merely for the protection of the witness, and it casts a

positive obligation on the State machinery to ensure that a fair trial takes place. But to outrightly treat it as a ground to deny cancellation of bail is entirely erroneous.

49. In ***Munilakshmi* v. *Narendra Babu*** reported in **2023 SCC OnLine SC 1380**, this Court cancelled the bail of the respondent as the principal witnesses to the trial turned hostile while the respondent was on bail. This Court noted that a vital witness had made a "*sudden summersault*" in her stance and the same cannot be detached from the allegations made against the respondent of hiring goons, etc. This Court noted that when glaring and overwhelming circumstances come under the notice of the court which reflect upon the misuse of concession of bail, it becomes an imperative upon the court to cancel the bail. This Court concluded that the respondent had the potential to influence the witnesses slated to depose against him. This Court also noted that in such situations the remedies in law for courts are either to cancel the bail so tendered or to recall such witness. In the following paragraphs, reproduced below this Court explained the importance of witnesses during prosecution and the factors which lead to their hostility: -

> *"26. A major challenge before this Court is to ensure a fair trial amidst the hostility of witnesses. Undoubtedly, witnesses play a very vital role in bringing justice home, especially in the adversarial system of court trials where the onus lies on the prosecution to prove the guilt of the accused by bringing persons acquainted with the facts before the courts of justice. Their testimony determines the fate of a trial before the court of law, without which the court would be like a sailor in an ocean sans the radar and the compass.[Mohd. Ashraf, 'Peculiarities of Indian Criminal Justice System Towards Witnesses : An Analysis' (2018) 26 ALJ 64.] If a witness turns hostile for extenuating reasons and is reluctant to depose the unvarnished truth, it will cause irreversible damage to the administration of justice and the faith of the society at large in the efficacy and credibility of the criminal justice system will stand eroded and shattered.*
>
> *27. This Court in Ramesh v. State of Haryana [(2017) 1 SCC 529] has illustratively explained the reasons behind the witnesses retracting their statements before the Court and turning hostile. These include : (i) threat/intimidation; (ii) inducement by various means; (iii) use of muscle and money power by the accused; (iv) use of stock witnesses; (v) protracted trials; (vi) hassles faced by the witnesses during investigation and trial; and (vii) nonexistence of a robust legislative mechanism to check hostility of witnesses. Amongst these reasons, the 'threat' and 'intimidation' of the witnesses have always been a matter of serious concern amongst all the stakeholders."*

50. What we want to convey is that the scheme is not an answer for every form of threat or intimidation that a witness is subjected to. In fact, if we are to go by the bare provisions of the scheme the real quotient of danger that an accused is capable of exhibiting does not even figure

out. There is nothing in the entire scheme that is aimed at preventing the accused person or anyone else, as the case may be, from going around administering threats or causing intimidation to the witnesses. If we are to comment on the scheme, it offers protection to witnesses of heinous crimes and crimes against women, which, with all humility, is a very myopic view to societal realities, in our view. More importantly, a straitjacket formula to witness protection is neither possible nor endeavoured. In ***NHRC v. State of Gujarat*** reported in (**2009) 6 SCC 767**, this Court pointed out that it would not be proper to give any general directions for witness protection, as the facts of each case would require unique measures to assure that the witnesses' right to testify safely is secured.

51. While the scheme creates an executive mechanism in pursuance of which the relevant authorities make the requisite measures for the protection of the witnesses, in no way does the obligations of the courts of law stand delegated. The standards applied in a case of seeking witness protection and cancellation of bail will be entirely on different levels. To ask a witness, on whose presence the fine thread of a fair trial rests, to run from pillar to post is grossly unjust.

52. Thus, the purpose of the Scheme is to ensure that witnesses, who are the eyes and ears of justice, are not reduced to silence or falsehood by threats that invade their psyche. It does not displace or dilute the established jurisprudence of bail; rather, it works alongside it, providing a protective canopy so that the existing provisions can operate in an environment where witnesses are free to testify. This duality is essential, as the law on bail restrains the accused through conditions, and prevents any further infractions of intimidation by cancellation of bail while the Witness Protection Scheme eradicate the invisible yet potent influence of fear, intimidation or threat, that are the consequences of the threats made by the accused persons to maintain the sanctity of trial.

53. Fair Trial requires earnest initiative, on the part of both the State that represents the collective conscience of society against crimes, and the courts acting as sentinel on the *qui vive* to secure that truth is not suppressed, nor justice subverted, by any external interference. It is in this light that the Witness Protection Scheme must be understood in the context of provisions on grant or cancellation of bail

Principles governing Cancellation of Bail

54. The law on cancellation of bail is well settled through a plethora of decisions of this Court.

55. In ***P* v. *State of M.P.*** reported in **(2022) 15 SCC 211** this Court held that the grant of bail is always conditional and may be subject to cancellation, if after the grant of the same there is any supervening circumstances that impedes fair trial.

> *"23. In a recent decision of a three-Judge Bench of this Court in Imran v. Mohd. Bhava [Imran v. Mohd. Bhava, (2022) 13 SCC 70] it has been held as follows:*
>
> > *"20. Indeed, it is a well-established principle that once bail has been granted it would require overwhelming circumstances for its cancellation. However, this Court in its judgment in Vipan Kumar Dhir v. State of Punjab [Vipan Kumar Dhir v. State of Punjab, (2021) 15 SCC 518] has also reiterated, that while conventionally,* ***certain supervening circumstances impeding fair trial must develop after granting bail to an accused****, for its cancellation by a superior court, bail, can also be revoked by a superior court, when the previous court granting bail has ignored relevant material available on record, gravity of the offence or its societal impact. It was thus observed :*
> >
> > > *'9. … Conventionally, there can be supervening circumstances which may develop post the grant of bail and are non-conducive to fair trial, making it necessary to cancel the bail. 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:

> *"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 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."*

10. These principles have been reiterated time and again, more recently by a three-Judge Bench of this Court in X v. State of Telangana [X v. State of Telangana, (2018) 16 SCC 511 : (2020) 1 SCC (Cri) 902].

11. In addition to the caveat illustrated in the cited decision(s), bail can also be revoked where the court has considered irrelevant factors or has ignored relevant material available on record which renders the order granting bail legally untenable. The gravity of the offence, conduct of the accused and societal impact of an undue indulgence by Court when the investigation is at the threshold, are also amongst a few situations, where a Superior Court can interfere in an order of bail to prevent the miscarriage of justice and to bolster the administration of criminal justice system…'

xxx xxx xxx

23. Thus, while considering cancellation of bail already granted by a lower court, would indeed require significant scrutiny at the instance of superior court, however, bail when granted can always be revoked if the relevant material on record, gravity of the offence or its societal impact have not been considered by the lower court. In such instances, where bail is granted in a mechanical manner, the order granting bail is liable to be set aside. Moreover, the decisions cited hereinabove, enumerate certain basic principles which must be borne in mind when deciding upon an application for grant of bail. Thus, while each case has its own unique factual matrix, which assumes a significant role in determination of bail matters, grant of bail must also be exercised by having regard to the abovementioned well-settled principles."

24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [Dolat Ram v. State of Haryana, (1995) 1 SCC 349 : 1995 SCC (Cri) 237] . To put it differently, in ordinary circumstances, this Court

would be loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court."

(Emphasis supplied)

56. This Court then summed up the principles or circumstance governing the cancellation of bail as under: -

"25. Some of the circumstances where bail granted to the accused under Section 439(1)CrPC can be cancelled are enumerated below:
(a) If he misuses his liberty by indulging in similar/other criminal activity;
(b) If he interferes with the course of investigation;
(c) If he attempts to tamper with the evidence;
(d) If he attempts to influence/threaten the witnesses;
(e) If he evades or attempts to evade court proceedings;
(f) If he indulges in activities which would hamper smooth investigation;
(g) If he is likely to flee from the country;
(h) If he attempts to make himself scarce by going underground and/or becoming unavailable to the investigating agency;
(i) If he attempts to place himself beyond the reach of his surety.
(j) If any facts may emerge after the grant of bail which are considered unconducive to a fair trial.

We may clarify that the aforesaid list is only illustrative in nature and not exhaustive."

(Emphasis supplied)

57. The governing principle is that if the accused tampers with evidence, threatens witnesses, or attempts to subvert the trial, the indulgence of bail is to be withdrawn. It is a recognition that liberty is conditional, not absolute, and subject always to the larger interest of ensuring a fair trial. Considerations for cancellation of bail must always be on the basis of the well settled principles as discussed aforesaid. There cannot be any extraneous considerations involved that are unknown to the law of bails.

58. At the same time, emphasis has to be laid that cancellation of bail occupies a distinct space in the criminal justice machinery. Cancellation intervenes at the stage of violation, to prevent recurrence. In ***State through Delhi Administration* v. *Sanjay Gandhi*** reported in **(1978) 2 SCC 411**, this Court underscored that tampering with witnesses constitutes a cogent ground for cancellation, for the "*opportunity of being on bail cannot be permitted to be abused for the purpose of thwarting the course of justice*." Similarly, in ***Raghubir Singh v. State of Bihar*** reported in **(1986) 4 SCC 481**, it was reiterated that intimidation of witnesses is sufficient to revoke the liberty granted. It

must be guided by the lodestar of preventing interference with witnesses that "strikes at the root of the rule of law."

59. Thus, the considerations that must weigh with the court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that might have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner etc.

The Practice prevailing in the Allahabad High Court

60. Before, we close this matter, we must address ourselves on one very important aspect that has come to our notice. We have come across a catena of orders from the Allahabad High Court proceeding on an incorrect assumption of the law, more particularly that the Witness Protection Scheme is a substitute for cancellation of bail. According to the High Court it is an alternative remedy. We are at pains to note that we came across at least forty recent orders, that have been passed

in the last one year alone, as per the records available from the official website of the Allahabad High Court, which are as under: -

S. No.	Details of the Case	Date of Order
1.	*Shaym Manohar* v. *State of U.P.* Crl. Misc. Bail Cancellation Application No. 26/2024	29.08.2025
2.	*Amar Nath* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 612/2024	28.08.2025
3.	*Dharmendra Kumar Kesarwani* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 478/2024	01.08.2025
4.	*Ram Narayan Pandey* v. *State of U.P.* Crl. Misc. Bail Cancellation Application No. 101/2024	14.07.2025
5.	*Saumya Singh* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 163/2024	10.07.2025
6.	*Meena Devi* v. *State of U.P.* Crl. Misc. Bail Cancellation Application No. 387/2024	09.05.2025
7.	*Qadir Husain* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 134/2024	07.07.2025
8.	*Pankaj Dubey* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 71/2025	07.07.2025
9.	*Shiv Ganesh* v. *State of U.P. & Ors.* Crl. Misc. Bail Cancellation Application No. 37/2024	03.07.2025
10.	*Arun Kumar Singh* v. State of U.P. Crl. Misc. Bail Cancellation Application No. 55/2024	02.07.2025
11.	*Ashish Kumar Aggarwal* v. *State of U.P. & Ors.* Crl. Misc. Bail Cancellation Application No. 99/2024	01.07.2025
12.	*Ashif* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 237/2024	08.05.2025
13.	*Rajesh Makan* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 113/2024	08.05.2025
14.	*Bakelal* v. *State of U.P. & Anr.*	07.05.2024

	Crl. Misc. Bail Cancellation Application No. 125/2024	
15.	*Sri Krishna* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 83/2025	01.05.2025
16.	*Dharmendra Kumar Kesarwani* v. *State of U.P.& Ors.* Crl. Misc. Bail Cancellation Application No. 306/2024	30.04.2025
17.	*Priya Rana* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 588/2024	30.04.2025
18.	*Ram Milan* v. *State of U.P. & Ors.* Crl. Misc. Bail Cancellation Application No. 133/2024	30.04.2025
19.	*Smt. Reena Yadav* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 100/2024	30.04.2025
20.	*Saumya Singh* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 561/2024	25.04.2025
21.	*Archarya Mahant Vivek Das* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 598/2024	23.04.2025
22.	*Dhanmani Devi* v. *State of U.P. & Ors.* Crl. Misc. Bail Cancellation Application No. 135/2025	22.04.2025
23.	*Shyam Manohar* v. *State of U.P. & Ors.* Crl. Misc. Bail Cancellation Application No. 26/2024	29.08.2025
24.	*Aleem v. State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 185/2025	28.08.2025
25.	*Sadar Mohd Khan v. State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 214/2024	01.08.2025
26.	*Ikbal Jahan v. State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 437/2024	08.05.2025
27.	*Maina Devi* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 184/2024	01.08.2025
28.	*Smt. Rajmati Devi* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 32/2024	03.07.2025
29.	*Arvind Singh* v. *State of U.P. & Anr.*	09.05.2025

	Crl. Misc. Bail Cancellation Application No. 579/2024	
30.	*Smt. Pooja Sharma* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 424/2024	08.05.2025
31.	*Nagendra Singh Yadav* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 76/2025	21.04.2025
32.	*Mishri Lal Nishad* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 155/2025	23.04.2025
33.	*Shivom Sharma* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 167/2024	30.04.2025
34.	*Shivpujan Pandey* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 587/2024	30.04.2025
35.	*Sikander Patel* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 500/2024	02.05.2025
36.	*Nankoo Bind* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 167/2025	01.05.2025
37.	*Gulshnover* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 171/2024	15.07.2025
38.	*Mubarak Husain* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 158/2025	25.04.2025
39.	*Shiv Singh* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 10/2025	24.04.2025
40.	*Raju* v. *State of U.P. & Anr.* Crl. Misc. Bail Cancellation Application No. 103/2025	21.04.2025

61. All of the above orders are a verbatim copy of each other. We are dismayed to note that the aforesaid practice of passing cyclostyled template orders has been in vogue past more than two years. The most disturbing feature of all these orders passed is that the Public

Prosecutor instead of assisting the learned Judge in the right direction by pointing out the correct position of law, has instead himself urged that the witness or complainant be relegated to avail remedy under the Witness Protection Scheme rather than seeking cancellation of the bail of the accused person, who administered threats and caused intimidation to the witness, in violation of the conditions of his bail order. We deprecate this practice.

62. In such circumstances, referred to above, we set aside the impugned order passed by the High Court and remand the matter to the High Court with a direction to rehear the application for cancellation of bail on its own merits, after calling for an appropriate report from the Investigating Officer as regards the two FIRs which have been registered by Chahat Ram i.e. one of the witnesses in the said case.

63. After giving an opportunity of hearing to all the Parties concerned and looking into the report that the High Court may call for from the I.O., the High Court shall proceed thereafter to pass an appropriate order in accordance with law.

64. Let the entire exercise as aforesaid be undertaken at the earliest, and an appropriate order be passed within a period of four weeks from today.

65. With the aforesaid, this appeal stands disposed of.

66. Pending application(s), if any, stand disposed of.

67. The Registry is directed to circulate one copy each of this order to all the High Courts. The Registry is further directed to forthwith send a copy of this order to the Hon'ble Chief Justice of the Allahabad High Court.

..... J.
(J.B. Pardiwala)

..... J.
(Sandeep Mehta)

New Delhi
02nd September,2025.