

Court No. - 70

**Case :- CRIMINAL MISC. BAIL CANCELLATION
APPLICATION No. - 128 of 2021**

Applicant :- Shabnam

Opposite Party :- State Of U.P

Counsel for Applicant :- Akhilesh Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. On 16.08.2021, notice was issued to opposite party no.2. As per office report dated 29.09.2021, notice has been served upon opposite party no.2.
2. Despite service of notice, none appeared on behalf of opposite party no.2.
3. Heard Sri A.K. Rajbhar, learned counsel for the applicant and Sri L.B. Maurya, learned AGA-I for the State.
4. The instant bail cancellation application has been filed on behalf of the applicant seeking cancellation of bail granted to opposite party no.2 by this Court vide order dated 26.11.2018 passed in Crl. Misc. Bail Application No. 44725 of 2018 in Case Crime No. 0208 of 2018 under sections 376, 323, 504, 506 IPC, Police Station Nanauta, District Saharanpur.
5. Learned counsel for the applicant submits that applicant is the informant of the case and he has filed the instant bail cancellation application on the ground that while granting bail to opposite party no.2, this Court imposed a condition upon him that after release on bail, he will not threaten or harass the prosecution witnesses but after release on bail, opposite party no.2 threatened the informant i.e. the applicant. In this regard, an NCR was also lodged by the applicant against opposite party no.2 under sections 504, 506 IPC in which, the Magistrate concerned directed for investigation under section 155 (2) Cr.P.C.
6. He further submits as opposite party no.2 misused the liberty of bail granted to him and violated one of the conditions imposed upon him by this Court, therefore, bail granted to him should be cancelled.

7. *Per contra*, learned A.G.A. opposed the prayer for cancellation of bail and submit that if on the basis of allegation with regard to threatening relating to sections 504, 506 IPC, bail granted to the accused persons is cancelled, then this Court will open a pandora box. Therefore, merely on the basis of the aforesaid allegation, bail granted to opposite party no.2 should not be cancelled.

8. I have heard both sides and perused the record of the case.

9. Although from the record, it reflects that while granting bail, this Court imposed a condition that opposite party no.2 will not threaten or harass the prosecution witnesses and as per the applicant i.e. the informant of the case, after release on bail, opposite party no.2 threatened him and in this regard, on 22.11.2020, an NCR was also lodged by him against opposite party no.2 under sections 504, 506 IPC but I find force in the argument advanced by the learned A.G.A. that merely on the basis of an NCR under sections 504, 506 IPC, it cannot be said that after release on bail, opposite party no.2 threatened the applicant and, if, on the basis of such an NCR, bail granted to the accused is cancelled, this Court would open a pandora box.

10. Further, the allegation of threatening is of the year 2020 and since then, almost three years have been passed and there is no evidence on record that opposite party no.2 again threatened the applicant.

11. It is easy to reject a bail application but it is very difficult to cancel the bail already granted and for cancellation, cogent and overwhelming reasons must be present which, in my view, is totally missing in the present matter.

12. Therefore, considering the facts and circumstances of the case as discussed above, in my view, the bail cancellation application is devoid of merits and is, accordingly, ***dismissed***.

Order Date :- 26.10.2023

Madhurima