

Court No. - 70

Case :- CRIMINAL MISC. BAIL CANCELLATION APPLICATION No. - 407 of 2022

Applicant :- Badama Devi

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Saurabh Kumar Pandey

Counsel for Opposite Party :- G.A.,Ajay Kumar Tiwari

Hon'ble Sameer Jain,J.

1. None appeared on behalf of the opposite party no. 2 even in the revised call. However learned AGA for the State-respondent is present.

2. Heard Sri Saurabh Kumar Pandey, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State-respondent.

3. The instant application has been moved to cancel the bail of opposite party no. 2 passed by this Court in Case Crime No. 203 of 2020, under Sections 302, 323 IPC, Police Station Nawabganj, District Prayagraj/Allahabad during pendency of the trial in the court below.

4. Learned counsel for the applicant submitted that applicant is the informant of the case and after released on bail opposite party no. 2 misused his liberty of bail granted to him and he continuously threatened the applicant and in this regard applicant tried to lodge the FIR but when his FIR was not lodged then he moved and application under section 156(3) Cr.P.C. and after direction of the court concerned FIR against opposite party no.2 was lodged under section 504 and 506 IPC and after investigation charge sheet has been submitted and therefore, this fact clearly suggests that opposite party no. 2 threatened the applicant and therefore, bail granted to him should be cancelled.

5. Learned AGA also submitted that after released on bail it appears that opposite party no. 2 threatened the applicant and after investigation charge sheet under section 504 and 506 IPC has been filed against him.

6. I have heard learned counsel for the parties and perused the record of the case.

7. From the perusal of the record, it appears that opposite party no. 2 was released on bail by this Court and as per the applicant after release on bail, he continuously harassed him and made pressure upon him for compromise and after the order of the magistrate concerned, FIR was lodged against the opposite party no. 2 in which it appears that after investigation charge sheet has been filed but it appears that on the basis of general and vague allegation, very casually, FIR of the present case was lodged against the opposite party no. 2 under sections 504 and 506 IPC and in my considered view, on the basis of such allegation of threatening, bail granted to opposite party no. 2 should not be cancelled.

8. Law is settled that it is easy to reject a bail application but it is very difficult to cancel the bail already granted to the accused and for cancellation of bail very overwhelming and cogent material should be available on record which is, in my, view completely missing in the present matter.

9. Therefore, considering the facts and circumstances of the case, discussed above, in my view, the instant bail cancellation application is devoid of merit and is, accordingly, ***rejected***.

10. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 31.10.2023

Ankita