

Court No. - 70

Case :- CRIMINAL MISC. BAIL CANCELLATION
APPLICATION No. - 316 of 2020

Applicant :- Smt.Shanti Devi

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

Counsel for Applicant :- R.B. Singh

Counsel for Opposite Party :- G.A.,Mushir Khan

Hon'ble Sameer Jain,J.

1. Sri R.B. Singh, learned counsel for the applicant and Sri Mushir Khan, learned counsel appearing on behalf of O.P. Nos. 2 and 3 and Sri Suresh Bahadur Singh, learned AGA-I for the State are present.

2. At the very outset, learned AGA submits that the instant bail cancellation application has been moved by the applicant under the provisions of Section 439(2) Cr.P.C. and from the record, it reflects that O.P. Nos. 2 and 3 were released on bail by this Court on 17.06.2020 in Criminal Appeal No. 1286 of 2020 and it further appears that they filed Criminal Appeal under Section 14A(2) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (in short SC/ST Act) and therefore, the instant bail cancellation application filed under the provisions of Section 439(2) Cr.P.C. is not maintainable.

3. Learned counsel for the applicant submits that there is no provision under the provisions of SC/ST Act for cancellation of bail, therefore, applicant i.e. informant of the case filed the instant bail cancellation under the provisions of Section 439(2) Cr.P.C. read with Section 14A(2) SC/ST Act and this Court is having power to cancel the bail granted to O.P. Nos. 2 and 3 even under the provisions of Section 439(2) Cr.P.C.

4. I have heard both the parties and perused the record of the case.

5. From the record, it reflects that O.P. Nos. 2 and 3 filed Criminal Appeal No. 1286 of 2020 before this Court and on 17.06.2020 appeal filed by them was allowed and order dated 06.02.2020, passed by the court concerned rejecting their bail application, was set aside by this Court and they were released on bail, therefore, it is apparent that O.P. Nos. 2 and 3 were released on bail by this Court in the Criminal Appeal No. 1286 of 2020 filed under Section 14A(2) SC/ST Act.

6. According to the Section 439(2) Cr.P.C., this Court empowered to direct any person, who has been released on bail under the chapter of bail i.e. Chapter-XXXIII of Cr.P.C. to be arrested and commit him to custody and therefore, from the provisions of Section 439(2) Cr.P.C. it is apparent that bail cancellation application can only be allowed under this provisions, if accused was released on bail under the Chapter-XXXIII of Cr.P.C.

7. In case at hand, admittedly, O.P. Nos. 2 and 3, the accused persons, were not released on bail under Chapter-XXXIII of Cr.P.C. and they were released on bail in Criminal Appeal filed under the provisions of Section 14A(2) SC/ST Act and, therefore, the instant bail cancellation application is not maintainable.

8. Accordingly, the instant bail cancellation application is ***dismissed as not maintainable.***

Order Date :- 1.11.2023

KK Patel