

Court No. - 65

**Case :- CRIMINAL MISC. BAIL CANCELLATION
APPLICATION No. - 592 of 2023**

Applicant :- Saroj Devi

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

Counsel for Applicant :- Ravindra Kumar

Counsel for Opposite Party :- G.A.,Sunil Vashisth

Hon'ble Rajeev Misra,J.

1. Heard Mr. Ravindra Kumar, the learned counsel for applicant, the learned A.G.A. for State and Mr. Sunil Vashisth, the learned counsel representing accused/opposite party-2.

2. Perused the record.

3. This bail cancellation application has been filed by victim Saroj Devi seeking cancellation of bail granted to accused/opposite party-2, Mukesh Kumar vide order dated 15.06.2021 passed by Sessions Judge, Ghaziabad in Criminal Misc. Bail Application No.4176 of 2027 (Amt. Anupama Vs. State of U.P.) arising out of Case Crime No. 37 of 2023, under Sections 302, 34, 504, 506 I.P.C., Police State Masoori, District Ghaziabad.

4. Present bail cancellation application came up for orders on 18.10.2023 and this Court passed the following order:

"1. Heard Mr. Ravindra Kumar, the learned counsel for applicant and the learned A.G.A. for State.

2. This bail cancellation application has been filed by applicant-Saroj Devi seeking cancellation of bail granted to accused-opposite party 2 vide order dated 15.06.2023 passed by Sessions Judge, Ghaziabad in Bail Application No. 4176 of 2023 (Mukesh Kumar Vs. State of U.P.).

3. At the very outset, the learned A.G.A. has raised a preliminary

objection by submitting that since applicant is not the first informant, therefore, the present application for cancellation of bail is not maintainable.

4. When confronted with above, the learned counsel for applicant submits that applicant is the victim as she is the widow of the deceased. Reliance is placed upon the judgment of the Supreme Court in Jagjeet Singh and Another Vs. Ashish Mishra @ Monu and Another, (2022) 9 SCC 321.

5. Notice on behalf of opposite party 1 has been accepted by the learned A.G.A.

6. Issue notice to opposite party 2.

7. All the opposite parties may file their respective counter affidavits to the application for cancellation of bail on or before the date fixed in the notice.

8. Notice shall be made returnable on 20.11.2023.

9. Put up again as fresh on 20.11.2023.

Order Date :- 18.10.2023 "

5. Though Mr. Sunil Vashisth, Advocate has put in appearance on behalf of accused/opposite party-2 but no counter affidavit has been filed till date.

6. The solitary ground urged by learned counsel for applicant for cancellation of bail granted to accused/opposite party-2 is that subsequent to order dated 15.06.2023, an F.I.R. dated 12.08.2023 was lodged by the victim, Saroj and was registered as Case Crime No. 0327 of 2023 under Section 506 I.P.C. P.S.-Masoori, District Ghaziabad.

7. The gist of the F.I.R. is that accused/opposite 2 is terrorizing the victim for entering into compromise in criminal proceedings in which accused opposite party-2 has already been enlarged on bail.

8. On a pointed query raised by the Court as to whether the charge

sheet in terms of Section 173 (2) Cr.P.C. has been submitted in Case Crime No. 0327 of 2023 or not in spite of the fact that a period of more than three months has expired from the date of lodging of the F.I.R., the learned counsel for applicant could not submit any reply.

9. In view of above, present application for cancellation of bail granted to accused/opposite party-2 is misconceived as no basis exists on record to conclusively concluded that accused/opposite party-2 is terrorizing the witnesses.

10.. As a result, present bail cancellation application fails and is liable to be rejected.

11. It is accordingly rejected.

Order Date :- 28.11.2023

YK