

Court No. - 68

Case :- CRIMINAL MISC. BAIL CANCELLATION
APPLICATION No. - 692 of 2023

Applicant :- Shyam Lal Nishad

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Pramod Kumar Sahani

Counsel for Opposite Party :- G.A.

Hon'ble Dr. Gautam Chowdhary, J.

1. The instant bail cancellation application has been moved on behalf of the informant for cancelling the bail granted to the accused-opposite party nos.2 in Case Crime No.302 of 2023 under Sections 376DA I.P.C., and Section 5/6 of POCSO Act, Police Station Ghosi, District Mau.

2. Learned counsel for the applicant submits that the accused-opposite party no.2 has committed heinous offence and he has been enlarged on bail without considering the correct facts and circumstances of the case. He further submits that the victim is minor aged about 13 years and she has supported the prosecution version in her statement recorded under Section 164 Cr.P.C. but while granting bail to the opposite party no.2, it has been observed that there is a contradiction in the age of the victim, however there is no contradiction in the age of the victim. Learned counsel thus argued that the opposite party no.2 has been granted bail without considering the factual and legal aspect of the matter and therefore, the bail granted to the applicant may be cancelled.

3. After perusing the order impugned as well as pleadings of the instant case, this Court is of the opinion, that learned counsel for the applicant could not point out any good ground for cancelling the bail granted to the opposite party no.2 in exercise of powers conferred under 439 (2) Cr.P.C.

4. Accordingly, the relief as sought by the applicant is refused.

5. At this stage, learned counsel for the applicant submits that the accused-opposite party no.2 is also threatening the informant as

well as other witnesses and therefore some protection may be granted to the applicant.

6. After hearing the learned counsel for the parties and after perusing the averments made in the present bail cancellation application, this Court is of the opinion, that the applicant has remedy available to him under Witness Protection Scheme, 2018, which scheme has been approved by Hon'ble Apex Court in **Mahender Chawla and others Vs. Union of India** reported in **(2019) 14 SCC 615**.

7. In case, the informant-applicant apprehends danger to his life and liberty, the applicant may move appropriate application on the proforma prescribed in the Witness Protection Scheme 2018 alongwith a certified copy of this order for redressal of his grievances, as raised in the instant bail cancellation application, before the competent authority as has been defined under Section 2 (c) of the Witness Protection Scheme, 2018 within a week from today, the same shall be considered and decided as expeditiously as possible, preferably within a period of one month from date of filing such application, strictly in accordance with the Witness Protection Scheme 2018.

8. The bail cancellation application is accordingly, disposed of.

Order Date :- 30.10.2023

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