

Court No. - 70

Case :- CRIMINAL MISC. BAIL CANCELLATION
APPLICATION No. - 353 of 2019

Applicant :- Brajesh Kumar Dwivedi

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

Counsel for Applicant :- Harsh Kumar Srivastava

Counsel for Opposite Party :- G.A.,Pradeep Kumar

Hon'ble Sameer Jain,J.

Heard Sri Harsh Kumar Srivastava, learned counsel for the applicant, Sri Pradeep Kumar, learned counsel for opposite party No. 2 and Dr. Atul Mehrotra, learned AGA for the state

The instant bail application has been filed seeking cancellation of bail granted to opposite party no.2 vide order dated 29.04.2019 in Case Crime No. 232 of 2018, under Sections 147, 148, 323, 504, 506, 302 IPC Police Station Hussainganj, District Fatehpur during pendency of the trial.

Learned counsel for the applicant submits that this is bail cancellation application and applicant is the informant of the case. He further submits that opposite party No.2 was enlarged on bail by this Court vide order dated 29/4/2019 and while granting bail, conditions were imposed that after release on bail he will not tamper with the evidence and will not pressurize the prosecution witnesses but after release on bail on 16/7/2019 he threatened the applicants and, in this regard, on 17/7/2019, an NCR was lodged by the applicant.

It is further submitted that as opposite party No.2 has breached the conditions imposed by this Court while granting bill to him and has misused the liberty of bail granted to him hence, his bail should be cancelled.

Per Contra, learned AGA as well as learned counsel for opposite party No.2 opposed the prayer for cancellation of bail and submits that the allegations of threatening against the opposite party no.2 is of the year 2019 and since then more than four years have been passed and, in the meantime, there is no allegation against opposite party No.2 either of abusing or threatening the applicant. All the witnesses of fact have already been examined and, therefore, there is no question of any tampering with the prosecution evidence. Therefore, bail

cancellation application is devoid of merit and should be dismissed.

I have heard the parties and perused the record.

The instant application has been moved on the ground that after release on bail, opposite party No.2 threatened the applicant i.e. the informant of the case and, therefore, misused the liberty of bail and also breached the conditions of bail. From perusal of the record, it is reflected that the allegations of threatening is of the year 2019 and since then, more than four years have been passed and further, it also appears that all the witnesses of fact have already been examined and, therefore, I find force in the argument advanced by learned counsel for the opposite party no.2 that there is no chance of tampering of evidence.

Therefore, from the discussions made above, in my view, the bail cancellation application is devoid of merit and, is accordingly, ***dismissed***.

Order Date :- 13.10.2023

Madhurima