

Court No. - 69

Case :- CRIMINAL MISC. BAIL CANCELLATION APPLICATION No. - 764 of 2023

Applicant :- Mahesh Chand

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

Counsel for Applicant :- Jai Prakash Prasad, Rakesh Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal, J.

1. List revised.

2. Heard Sri Ashutosh Kumar, Advocate, holding brief of Sri Rakesh Yadav, learned counsel for the applicant, Sri Triveni Saran Rai, learned A.G.A. for the State and perused the material on record.

3. This bail cancellation application under Section 439(2) Cr.P.C. has been filed by the applicant Mahesh Chand to cancel the bail granted to the opposite party no. 2 vide order dated 25.5.2022 passed in Criminal Misc. Bail Application No. 1762 of 2022, Vinay vs. State of U.P., arising out of Case Crime No. 1023 of 2021, under Sections 323, 504, 506, 307, 302, 34 I.P.C., P.S.- Baraut, District Baghpath.

4. Learned counsel for the applicant argued that the applicant is the informant of the present case. Learned counsel has placed paragraph nos. 17 and 18 of the affidavit in support of bail cancellation application and has argued that the opposite party no. 2 has not complied with the terms and conditions of the order dated 25.5.2022 by which he has been granted bail. The applicant is being threatened by the opposite party no. 2 at the stage of evidence in the trial and also by the co-accused persons after their release and have created a situation of terror before the concerned trial court. Paragraph nos. 17 and 18 of the affidavit read as under:-

"17. That it is relevant to mention here that the opposite party No. 2 disobeyed the terms and condition of the order dated 25.05.2022 passed by this Hon'ble Court in Criminal Misc. Bail Application No. 1762 of 2022 (Vinay Vs. State of U.P.).

18. That it is further stated here that the trial going on at the stage of evidence after threaten by the opposite party No. 2 and other co-accused release on bail by this Hon'ble Court to not give the evidence before the learned Session Trial Court create situation by the opposite party No. 2 and other co-accused. The bail of the opposite party No. 2 granted by this Hon'ble Court liable to be cancelled."

5. Per contra, learned A.G.A. opposed the prayer for cancellation of bail.

6. After having heard learned counsels for the parties and perusing the records, it is evident that the allegation as in paragraph nos. 17 and 18 of the affidavit in support of bail cancellation application which has been pressed and argued does not find support from any of the documents. Even the order sheet of the trial court showing any such threat during trial to the

informant or witnesses has not been produced, placed or relied upon by the learned counsel for the applicant. There is nothing on record to show that there is any threat to any of the persons by the opposite party no. 2. In view of the same, no ground exists to cancel the bail granted to the opposite party no. 2.

7. Accordingly, the present bail cancellation application is rejected.

(Samit Gopal,J.)

Order Date :- 22.11.2023

Naresh