

Court No. - 70

Case :- CRIMINAL MISC. BAIL CANCELLATION
APPLICATION No. - 637 of 2022

Applicant :- Smt. Rachna Gautam

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

Counsel for Applicant :- Mrityunjay Dwivedi

Counsel for Opposite Party :- G.A., Ravi Pandey

Hon'ble Sameer Jain, J.

1. Heard Shri Mrityunjay Dwivedi, learned counsel for the applicant, Shri Santosh Nigam, learned A.G.A. for the State-respondent and Ravi Pandey, learned counsel for the Informant.
2. The instant bail cancellation application has been filed seeking cancellation of the bail granting order of opposite party nos.2 and 3 dated 08.07.2022 passed by Co-ordinate Bench of this Court in Case Crime No.581 of 2021, under Sections 147, 148, 149, 307, 302, 504, 506 IPC, Police Station Iglas, District Aligarh, during pendency of the trial in the court below.
3. Learned counsel for the applicant submit that applicant is the informant of the case and he has filed the instant bail cancellation application with a prayer to cancel the bail granted to opposite party nos.2 and 3 on the ground that after released on bail opposite party nos.2 and 3 threatened her and in this regard on 29.07.2022, an FIR was lodged by her against opposite party nos.2 and 3, under Section 506 I.P.C., which has been annexed as Annexure No.3 to the affidavit. He further submits, as opposite party nos.2 and 3 are misusing the liberty of bail granted to them therefore, bail granted to them by this Court should be cancelled.
4. Learned A.G.A. also conceded that from Annexure No.3 to the affidavit, it appears that opposite party nos.2 and 3 threatened the

applicant after released on bail and in this regard applicant lodged an F.I.R. against them, under Section 506 I.P.C.

5. Per contra, learned counsel for the opposite party nos.2 and 3 opposed the prayer for cancellation of bail and submits that on false allegation of threatening, applicant on 29.07.2022 lodged an FIR against opposite party nos.2 and 3, under Section 506 I.P.C.

6. He further submits that even from perusal of the FIR dated 29.07.2022, it appears that on the basis of general allegation opposite party nos.2 and 3 have been made accused in case of Section 506 I.P.C. and merely on the basis of such allegation, it would not be appropriate to cancel the bail granted to opposite party nos.2 and 3, therefore, instant bail cancellation applicant is devoid of merit and is liable to be dismissed.

7. I have heard learned counsel for both the parties and perused the record of the case.

8. The instant bail cancellation application has been moved by the applicant, who is informant of the case on the ground that after released on bail, opposite party nos.2 and 3 threatened her on 27.07.2022 and in this regard, she also lodged an FIR against them, under Section 506 I.P.C. on 29.07.2023 but from perusal of Annexure No.3 i.e. FIR dated 29.07.2022 lodged by the applicant against opposite party nos.2 and 3, under Section 506 I.P.C., it appears that it was lodged after two days from the alleged incident of threatening and I find force in the argument advanced by learned counsel for opposite party nos.2 and 3 that only general and vague allegation of threatening has been levelled against them and in my considered view on the basis of such vague allegation of threatening, bail granted to an accused should not be cancelled.

9. Further, from the perusal of the FIR, it also appears that FIR of threatening was lodged against opposite party nos.2 and 3 on

29.07.2022 i.e. about a year before and there is no material available on record on the basis of which, this Court can infer that even till date opposite party nos.2 and 3 are pressurizing the applicant and therefore, on the basis of such stale allegation of threatening also, it is not appropriate to cancel the bail granted to opposite party nos.2 and 3.

10. Further, law is settled that it is easy to reject a bail application but it is very difficult to cancel a bail already granted and for cancellation of bail, very cogent and overwhelming reasons must be available on record, which in my considered view is missing in the present matter.

11. Therefore, considering the facts and circumstances of the case, discussed above, in my view, the instant bail cancellation application is devoid of merit and is accordingly **dismissed**.

Order Date :- 30.11.2023

Zafar