

Court No. - 70

Case :- CRIMINAL MISC. BAIL CANCELLATION APPLICATION No. - 795 of 2023

Applicant :- Kajal

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

Counsel for Applicant :- Awadhesh Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Awadhesh Kumar Srivastava, learned counsel for the applicant and Sri Jhamman Ram, learned AGA for the State-respondent.

2. The instant application has been filed to cancel the bail order of the opposite party no. 2 granted by court concerned vide order dated 15.6.2023 in Case Crime No. 118 of 2023, under Sections 376, 342, 506 IPC, Police Station Nuriya, District Pilibhit, during pendency of the trial in the court below.

3. Learned counsel for the applicant submitted that applicant is the informant of the case and he moved the instant application for cancellation of the bail granted to the opposite party no. 2 on the ground that after released on bail opposite party no. 2 is threatening her.

4. He further submitted that the opposite party no. 2 was released on bail on 15.6.2023 and on 24.7.2023 in the evening after entering in the house of the informant i.e. applicant, he alongwith another accused threatened her and in this regard on 26.7.2023 applicant moved an application before D.I.G. concerned which has been annexed as annexure-15 to the affidavit and this fact clearly suggests that opposite party no. 2 after released on bail misused the liberty of bail granted to him and therefore, bail granted to him be cancelled.

5. He further submitted that it is a case of section 376 IPC and allegation against the opposite party no. 2 was that under the false promise of marriage, he sexually exploited the applicant i.e. victim but in spite of that in such heinous offence, court concerned released the opposite party no. 2 on bail and therefore, on this ground too bail granted to the opposite party no. 2 should be

cancelled.

6. Learned AGA also submitted that from the perusal of the bail granting order dated 15.6.2023 it reflects that after released on bail opposite party no. 2 misused the liberty of bail granted to him and threatened the applicant.

7. He further submitted that victim in her both the statements recorded under sections 161 and 164 Cr.P.C. stated that opposite party no. 2 under the false promise of marriage, sexually exploited the applicant i.e. victim.

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

9. The instant bail cancellation application has been moved by the applicant i.e. informant of the case on two grounds.

10. Firstly, after released on bail opposite party no. 2 threatened the applicant and in this regard, applicant also moved an application to the D.I.G. concerned. The application moved by the applicant has been annexed as annexure-15 to the affidavit and from its perusal, it appears that only general allegation has been levelled against the opposite party no. 2 and in the considered view of this Court, on the basis of such vague and general allegation of threatening, bail granted to the accused should not be cancelled.

11. Further, second ground is that however victim i.e. applicant in her statement recorded under sections 161 and 164 Cr.P.C. made allegation of sexual exploitation against the opposite party no. 2 but in spite of that court concerned granted bail to him but from perusal of the bail granting order of the court concerned, it reflects that it is a well reasoned order and it cannot be said that it is based on either relevant facts or some relevant facts could not be considered.

12. Law is settled that it is easy to reject a bail application but it is very difficult to cancel the bail already granted to the accused and for cancellation of bail very overwhelming and cogent material should be available on record which is completely missing in the present matter.

13. In view of the discussion made above, I find no merit in the instant bail cancellation application and it is, accordingly, **dismissed.**

14. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 11.12.2023

Ankita