

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment pronounced on : 22nd April, 2015

+ **CRL.M.C. 5789/2014**

STATE GOVT OF NCT OF DELHI Petitioner

Through: Mr. Varun Goswami, APP with
IO Insp. Amar Deep Sehgal.

versus

DHANANJAY SINGH Respondent

Through: Mr. J.S. Bhasin, Adv. Mr.S.P.N.
Tripathi, Mr.Vaibhav Sharma, Ms.
Rashmi Priya & Mr. Nishant
Shokeen, Advs.

CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J.

1. The present petition has been filed under Section 439(2) read with Section 482 Cr.P.C. on behalf of the state seeking setting aside/quashing of the order dated 30th October, 2014 and for cancellation of bail granted by Additional Sessions Judge-04, New Delhi District, Patiala House Courts, New Delhi in Sessions case No.SC-23/3/2014 pertaining to FIR No.198/13 P.S. Chanakya Puri, New Delhi for the alleged offences under Section 302/307/344/325/506/201/202/109/370/374 IPC.

2. Brief facts as per prosecution case are that :

- i) On 4th November, 2013 at about 7.30 PM, SI Virender Singh (I/C PP South Avenue) received a telephone call from mobile phone of the respondent, MP-Lok Sabha (Jaunpur constituency) at that time requested the police to come to his office at Flat No 126, South Avenue, New Delhi. When SI Virender Singh reached the office the respondent informed him that on 4th November, 2013 when he was in his Constituency in Jaunpur area he had received a telephone call from his wife Jagriti Singh from Delhi regarding the death of their maid servant namely Rakhee Bhadra at Flat No 175, South Avenue, New Delhi. At her request, he came back to Delhi and informed the police about this information. He requested SI to enquire the matter. SI along with HC Pramod No. 969/ND and Ct Rajesh No 2439/ND reached Flat No 175, South Avenue, New Delhi vide DD No 36 PP South Avenue, New Delhi, where co-accused Dr Jagriti Singh wife of the respondent and servant Rampal aged 17 years met.
- ii) A dead body of a female was found lying in a Porta Cabin at the back side of the flat. Dr Jagriti Singh informed that the deceased is her maid servant namely Rakhee Bhadra from Kolkatta aged about 35 years. She also informed that the maid servant Rakhee Bhadra was working with her for last about one year and was employed through an agent Dev Kumar of AJR Placement Services, 584 Chirag Delhi 1st Floor New Delhi. She suddenly died in the morning of 4th

November, 2013 and at about 08:30 AM, she passed this information to her husband through phone.

- iii) Dead body of Rakhi Bhadra was sent to Dr. RML Hospital through HC Pramod for MLC after inspection of scene of crime by senior officers and crime team. It is the case of prosecution that during the interrogation at the scene of crime it was found that servant Rampal also had injury marks on his head, face, neck, hands and legs and burn marks on his back and stomach.
- iv) HC Pramod handed over MLC No.E/234935/13 of deceased Rakhi Bhadra to SI Virender Singh at the scene of crime. On inspection of MLC it was found by the police that in General Examination Brought Dead, Unconscious, all brain stem reflexes absent, B.P/Pulse not recordable, respiration-absent, pupils- B/L dilated and fixed, ECG strait line, rigor mortis- fingers of hand- B/L. The doctor had also mentioned injuries on the body of deceased Rakhi Bhadra on MLC 1) CLW 2 cm (R) occipital region 2) B/L eye swelling (+). 3) (L) eye sub conjunctival haemorrhage. 4) Multiple abrasions and bruises on face. 5) CLW's 1cm on chin, 1cm below (R) eye and 1cm lateral to (L) eye. 6) Multiple abrasions around chest B/L nipples. 7) Bluish discolorations of lower limb, lower abdomen, partially in back and has opined nature of injury to be blunt.

- v) According to MLC, the following injuries were found on the body of Rampal: 1) Partially healed burnt wound over left side of abdomen approx 5*3 cm. 2) Partially healed abrasion approx 5*1 cm over left lower back. 3) Contusions (+) both forearms. 4) Abrasions (partially healed) over (R) scapular area centre of forehead, (L) parietal area and sagittal suture area. 5) Numerous partially healed abrasions over (L) side of neck and (L) chest. During the medical examination of Rampal, he revealed that he was subjected to physical torture for the last 7-8 months continuously which has also been mentioned by the doctor in MLC case history.
- vi) On the basis of statement of Juvenile Rampal, inspection of dead body of deceased Rakhi Bhadra, inspection of scene of crime, circumstances and MLC reports, an offence under Section 302/307/344/506 IPC and 23/26 Juvenile Justice (Care and Protection of Children) Act, 2000 was found to be committed. SI Virender Singh sent rukka through HG Pramod to duty officer PS Chanakya Puri for registration of the case.

Thereafter, Dr Jagriti Singh and her husband /respondent were called for interrogation in the police station. They were enquired about recording system of 20 CCTV cameras, installed in the flat at various locations.

- vii) The wife of the respondent was arrested in the said case under Section 302/307/344/506 IPC and 23/26 Juvenile

Justice (Care and Protection of Children) Act, 2000. Her disclosure statement was also recorded. Respondent/accused was arrested on 5th November, 2013 and further Sections 201/202/109 IPC were added i.e. for causing destruction of evidence, intentional omission to give information of offence by person bound to inform and for abetting the offence.

viii) In post mortem report of deceased Rakhi Bhadra, the doctor opined the cause of death as "In this case is combined effect of hemorrhagic shock due to multiple injuries (head, trunk, Lt. Leg) by blunt force and asphyxia as a result of throttling, which is sufficient to cause death in ordinary course of nature. All injuries are ante-mortem in nature.

ix) The subsequent opinion given in pursuance to the request of the APP is as follows:

1. Injury no. L-1, H-1,6 & H.2,4 are typically suggestive of caused by blunt force like danda and could be possible with the "danda" submitted.
2. Injury no. A-2 is suggestive of caused by poking of a pointed object and could be possible with metallic deer horns, however other lacerations and bruise and abrasions are also possible by any blunt force like metallic deer horn, wooden danda etc.
3. Injury no. I-1,2 as mentioned in PM report could be possible with contact burn with hot electric iron press submitted and could be 2-4 days old.
4. Congested larynx & trachea with haemorrhage over rt. Front and left back side of thyroid complex is

suggestive of manual throttling and compression of airways which could be fatal in itself, however along with it haemorrhagic shock due to multiple injuries caused by blunt force is also sufficient to cause death in ordinary course of nature.

5. 6. 7. Injury no. J, scald burn by hot liquid could be 4-6 wks old. Injury no. K-1 could be caused by any blunt force like nail (finger nail) and could be months old. Injury no. K-2, partially healed scratches could be caused by any blunt force like finger nail and could be 1-4 wks old. Injury no. I-1,2 could be (contact burn) 2-3 days old. All other injuries are of recent in origin. Injury no. L-2 could be possible with any pointed piercing object like metallic wire or hair pin etc. tooth injury (dislocation) could be possible by any blunt force like spoon, danda etc.
 8. The different nature of injured i.e abrasion (scratches/nail marks, bruise, piercing/pocking injury/lacerations, contact burns, scald burn due to hot liquid and other blunt force injuries to tooth, lips, eye, chest as mentioned is suggestive of physical assault by different means/weapons. And different age of injuries is typically suggestive of physical assault/infliction of painful stimuli "over a period of time".
- x) It is also the case of the prosecution that during the course of investigation, the CCTV footage of 20 cameras installed at 175, South Avenue, New Delhi was examined and analysis table was prepared and the same has been placed on record. Accused Jagriti Singh, wife of the respondent has been seen giving merciless beatings to all the three servants working at 175, Sought Avenue, New Delhi at different dates.

3. On 11th November, 2013, an application under Section 437 Cr.P.C. for grant of regular bail was moved by the respondent in the court of Metropolitan Magistrate, Patiala House, New Delhi.

On 13th November, 2013, another FIR against the respondent under Section 376/506 IPC on a complaint by one Ms. Anita Singh was registered with P.S. Pandav Nagar, being FIR No.520/2013. It is pertinent to mention here that the despite being granted interim bail in the present FIR, the respondent is still in custody in the aforesaid FIR No.520/2013 and therefore, the respondent was not able to utilize the impugned order till date.

4. The detailed reply on behalf of the prosecution through the concerned SHO was filed before the Metropolitan Magistrate on 18th November, 2013 wherein it was inter-alia brought to the notice of the court that the respondent has an extremely dubious and soiled past antecedents, in as much as, the respondent is accused in as many as 31 criminal cases involving offences like murder, unlawful assembly, attempt to murder, Arms Act, U.P. Gangster Act etc.

5. On 20th November, 2013 the Metropolitan Magistrate vide order dismissed the bail application of the respondent. Thereafter on 25th November, 2013 the respondent approached the Sessions Judge, Patiala House Court through an application under Section 439 Cr.P.C seeking grant of regular bail.

By order dated 29th November, 2013 the aforesaid bail application of the respondent was also dismissed. On 5th December, 2013, the respondent moved yet another bail application under Section 439 Cr.P.C., this time seeking interim bail for 30 days to enable the respondent, being a member of parliament, to attend the winter session of the Parliament (Lok Sabha). The same was also dismissed by order dated 10th December, 2013. On 15th December, 2013, yet again for the same reason and on the identical grounds i.e. to attend the Winter Session of the Parliament, the respondent moved an application seeking permission to attend the Parliament in judicial custody. On 17th December, 2013 even the said application was dismissed.

6. On 30th January, 2014, upon the completion of the investigation, the charge sheet was filed by the investigating officer before the Metropolitan Magistrate.

7. On 19th February, 2014 the respondent moved another substantive bail application under Section 439 Cr.P.C. before the Sessions Judge and the same was dismissed on 22nd February, 2014. On 25th February, 2014 the respondent filed another bail application under Section 439 Cr.P.C. seeking interim bail on the identical grounds.

8. On 22nd March, 2014, the Additional Sessions Judge passed an order to enlarge the respondent on interim bail till 21st May, 2014 on the ground of the ailment of the father of the respondent as also to enable the accused to give him a chance to "show his

bonafide". The said order was challenged by the petitioner herein on various grounds when the petition for cancellation of bail was listed before this Court on 31st March, 2014.

9. This Court while issuing notice to the respondent stayed the operation of the order dated 22nd March, 2014 mainly on the reason that he is already in custody in another case under Section 376 IPC and the respondent could not avail the benefit of the order dated 22nd March, 2014.

10. The respondent challenged the said order dated 31st March, 2014 before the Supreme Court vide SLP (Crl) No.3042/2014 ny order dated 9th April, 2014, dismissed the SLP, however granted temporary bail for one week to the respondent to submit his nomination papers before the returning officer Jaunpur, U.P.

11. This Court on the petition filed by the State for cancellation of bail, by its final order dated 21st April, 2014, set aside the order of grant of interim bail to the respondent dated 22nd March, 2014. After the said dismissal, the respondent yet again, after surrendering, approached the ASJ seeking interim bail for looking after his ailing father. The prayer of interim protection was granted to enlarge the respondent for the reason of the illness of the father of the respondent.

12. The said order was also challenged by the State vide Criminal Misc. Case No.2285 of 2014, which was withdrawn on 21st May, 2014 as the respondent had surrendered on 20th May, 2014

in terms of the order of the trial court dated 25th April, 2014. The respondent was again granted interim bail on account of the illness of his father. The said order was extended on 5th July, 2014. On the said date it was further extended upto 2nd August, 2014. On 2nd August, 2014 the interim bail was mechanically extended and lastly, the Additional Sessions Judge vide the impugned order dated 30th October, 2014, the respondent was enlarged on regular bail.

13. The said order has been challenged by the State/petitioner in the present matter wherein the prayer is made to set aside the order by cancelling the regular bail granted to the respondent mainly on the ground that in the process the Additional Sessions Judge has committed gross errors of law and ignored material and evidence on record. The argument of the learned counsel for the petitioner is that the order granting bail is unjustified, illegal and perverse, as no prayer was made in the impugned application for regular bail yet the same was granted despite of the fact that the allegations against the respondent are grave and serious. He is accused of abetting murder of his maid servant by the co-accused, his wife. The regular bail has been granted by the impugned order by the trial court who failed to appreciate the fact that under the garb of taking care of ailing father, the respondent had in fact sought interim bail for campaigning in the election. One of the reasons given by the trial court for granting regular bail to the respondent this time has been that the respondent has "lost his

aura of being a Member of Parliament & the witnesses are enjoying police protection" is not proper and justifiable in granting bail. He states that the entire approach of the trial court is non-application of mind and without considering the material available on record. Learned counsel has referred various decisions in support of his submission.

14. Learned counsel for the petitioner has argued that once the trial court has ignored the material evidence on record and has passed the perverse order by granting bail in a serious crime, the case of cancellation of bail is made out. The Supreme Court has taken such a view in the following cases :

- a) ***Puran vs. Rambilas and Anr.***, AIR 2001 SC 2023
- b) ***Kalyan Chandra Sarkar vs. Rajesh Ranjan Alias Pappu Yadav and Anr.***, (2004) 7 SCC 528.
- c) ***Gobarbhai Naranbhai Singala vs. State of Gujarat & Ors.***, (2008) 2 SCC (Cri.) 743
- d) ***Satish Jaggi vs. State of Chattisgarh***, (2008) 1 SCC (Cri) 660
- e) ***Anil Kumar Tulsiyani vs. State of U.P. & Anr.***, (2006) 9 SCC 425
- f) ***State Thr CBI vs. Amarmani Tripathi***, (2005) 8 SCC 21

15. Learned counsel for the petitioner by referring the said judgements also argued that the trial court in the present case had refused the bail applications of the respondent many times. In the subsequent application having the similar ground by which the bail

was granted without specific reasons, the said order is to be considered as illegal, perverted and is liable to be set aside. Reliance is placed on ***Ram Govind Upadhyay vs. Sudershan Singh & Ors.***, 2002 (3) SCC 598. His further submission is that the petitioner has not merely moved the petition for cancelling the bail application but has really challenged the impugned order which is contrary to law. He argued that in the present case the trial court has ruled to give any valid reason for granting the bail, thus, the said order is not sustainable in law, as it was the duty of the trial court who is happened to be the same court who had taken the different view from one taken in the earlier applications to give the valid reason on the basis of additional grounds, if any. As the trial court in the present case failed to assign any such reason for granting the bail to the respondent, the said order is liable to be set aside by cancelling the bail.

16. He has argued that it was the duty of the trial court while granting the bail, the criminal antecedents ought to have been taken into account which were pointed out by the prosecution but the same have not been discussed in the impugned order. The same are necessary in view of the recent judgment in the case of ***Mansoor Alam vs. State of U.P. and Anr.***, JT 2015 (1) SC 126.

17. Mr.J.S. Bhasin, learned counsel appearing on behalf of respondent submits that there is no illegality and perversity in the order passed by the trial court while granting bail to the respondent. As the respondent has never violated any condition imposed on

him by the court while granting the interim bail and extending the same from time to time except the petitioner is trying to mislead the court by not putting the correct facts.

18. It is submitted by Mr. Bhasin that the material witnesses i.e. two other servants have been kept in safe custody as per order date 20th November, 2013 passed by the trial court. There is no complaint against the respondent for any threat or intimidation to anyone in the instant matter. The petitioner is not making any allegation of violation of any of the conditions imposed by the Court concerned. As far as delay for recording of the evidence of material two witnesses is concerned, Mr. Bhasin submitted that the delay in trial is not attributable to the respondent who had not even taken a single adjournment and had always co operated with the investigation. Till date the prosecution is unable to file forensic report of the telephone records allegedly belonging to the respondent and co-accused. The delay is on the part of the prosecution who has incorrectly stated that it has occurred on the part of the respondent.

19. It is argued by Mr. Bhasin that once bail has been granted to the accused, the prosecution cannot have the bail cancelled on the same objections which may have existed before the grant of bail. As there is no violation of the terms of order granting bail, cancellation would not be justified. His argument is that there are sufficient reasons assigned by the trial court while granting the bail and in the absence of any material after granting the bail, the

present petition for cancellation of bail has no merit, as the Court should be more rigid. Actual proof of violation is required. The cancellation of bail is a harsh order because it takes away the liberty granted to an individual granted. He also referred few judgments in support of his submissions.

20. Mr.Bhasin submits that as far as previous criminal antecedents are concerned, the respondent has not been convicted in any matter. There is no complaint from anyone about threat to any witness in any case. All cases about his previous alleged involvement have been planted, fabricated by the respondent's rival, due to his political rivalry. The Court while passing the impugned order has considered all aspects including one of the main reasons that the material witnesses are in the safe custody and protection. Thus, it is balanced and reasonable order and no inference is necessary.

It is submitted that earlier the rejection of the bail order dated 22nd February, 2014 by the trial court was only the sole ground that respondent is an MP and there is apprehension about intimidation to the main and poor witnesses and since Court has passed the order of protection to the witnesses and their safe custody in the police, which necessitated to file another bail application. It is further argued by the counsel that the prosecution is misleading this Court by trying to mix up the case of co-accused with case of respondent with intention to cause prejudice against the respondent. The prosecution had the knowledge of the incident at

about 7 PM on 4th November, 2013 as informed by the respondent, but FIR was registered only after lapse of 12 hours against him on the next day i.e. 5th November, 2013.

21. In view of the above referred facts and rival submissions of both counsel, it is to be considered as to whether the impugned order is liable to be set aside by cancelling the bail of the respondent or not. No doubt, in the present case the offence with which respondent/accused is charged is serious in nature, but every accused is presumed innocent until proven guilty beyond reasonable doubt and every accused person has the right to enjoy the bail granted to him unless there is evidence to show the abuse of this right given to him.

Section 439 Cr.P.C. confers wide powers on the Court and the Court of Sessions regarding bail. But, while granting bail, the High Court and the Sessions Court are guided by the settled law i.e. the gravity of the crime, the character of the evidence, position and status of the accused with reference to the victim and witnesses, the likelihood of the accused fleeing from justice and repeating the offence, the possibility of his tampering with the witnesses and obstructing the course of justice and such other grounds are required to be taken into consideration.

22. It is settled law that the court must not undertake meticulous examination of the evidence collected by the police and comment on the same. Such assessment of evidence and premature comments are likely to deprive the accused of a fair trial. While

cancelling bail under Section 439(2) Cr.P.C., the primary considerations which weigh with the court are whether the accused is likely to tamper with the evidence or interfere or attempt to interfere with due course of justice or evade the due course of justice. While considering the bail application, it is also to be kept in mind that individual liberty cannot be accentuated to such an extent or elevated to such a high pedestal which would bring in anarchy or disorder in the society. There can be no arithmetical formula for fixing the parameters in precise exactitude but the adjudication should express not only application of mind but also exercise of jurisdiction on accepted and established norms.

23. In ***Sanjay Chandra vs. CBI***, (2012) 1 SCC 40 in para 19 of the judgment it was observed that earlier application filed on behalf of the accused before framing of charges was dismissed by the Supreme Court of India. After framing of charges and commencement of trial, the application cannot be compared with the earlier order and it cannot be said that there are no change of circumstances. At this juncture, it is relevant to reproduce the observations in the said judgment:-

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that

every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.

23. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.

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25. The provisions of CrPC confer discretionary jurisdiction on criminal courts to grant bail to the accused pending trial or in appeal against convictions; since the jurisdiction is discretionary, it has to be exercised with great care and caution by balancing the valuable right of liberty of an individual and the interest of the society in general. In our view, the reasoning adopted by the learned District Judge, which is affirmed by the High Court, in our opinion, is a denial of the whole basis of our system of law and normal rule of bail system. It transcends respect for the

requirement that a man shall be considered innocent until he is found guilty. If such power is recognised, then it may lead to chaotic situation and would jeopardise the personal liberty of an individual.

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27. This Court, time and again, has stated that bail is the rule and committal to jail an exception. It has also observed that refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution.

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24. It is true that the order of bail can be cancelled on existence of cogent and overwhelming circumstances but not on re-appreciation of evidence. No circumstances have been explained except it was alleged that the impugned order is illegal and material facts and evidence was considered and material witness i.e. two servants are yet to be recorded and there is an apprehension of tampering of evidence and they cannot be threatened by the respondent who is already facing the trial in large number of cases thus there is a valid doubt in the mind of prosecution. The principles that have to be kept in view for recalling the order of bail are set out in ***Dolat Ram v. State of Haryana*** (1995) 1 SCC 349.

25. It is a settled law that bail granted can be cancelled on the ground which has arisen after the bail was granted. It is presumed that at the time of hearing of the bail application, the prosecution has raised all possible grounds which could go against the accused

in the matter of bail and, therefore, when once bail has been granted to the accused, the prosecution cannot have the bail cancelled on some circumstances which may have existed before the grant of bail. Learned Counsel for the respondent submitted that there is no allegation of violation of any of the conditions imposed by the trial court. He also submitted that the delay in trial is not attributable to the respondent. Counsel for the accused were available on each and every date of hearing since the filing of charge-sheet. According to him, the delay is on the part of the prosecuting agency. There is a force in the submissions of Mr. Bhasin about his objections to the prayer of cancellation of bail.

26. The ground of cancellation of bail and grounds of rejection of bail are two different circumstances and hence the approach of the Court should also be different. At the time of hearing the bail application, the Court looks at the possibilities of the violation of bail conditions and the Court has to be more open and flexible, whereas while hearing the cancellation application, the Court has to be more rigid and it has to examine not only the possibility of violations but whether the actual violation has taken place or not.

The Court should be more rigid here and actual proof of violation is required. The power of cancellation of bail must be exercised with care and circumspection of cogent and overwhelming circumstances which are necessary for an order seeking cancellation of bail. Where there is no violation of the terms of order granting bail, cancellation is not justified. The bail

already granted should not be cancelled in a routine manner as it jeopardize personal liberty of the person.

In ***Sunil Fulchand Shah v. Union of India and Others***, it was held as under: -

"Bail is well understood in criminal jurisprudence and Chapter XXXIII of the Code of Criminal Procedure contains elaborate provisions relating to grant of bail. Bail is granted to a person who has been arrested in a non bailable offence or has been convicted of an offence after trial. The effect of granting bail is to release the accused from internment though the court would still retain constructive control over him through the sureties. In case the accused is released on his own bond such constructive control could still be exercised through the conditions of the bond secured from him. The literal meaning of the word bail is surety."

27. The material available on record would show that there was strain relation between the respondent and his wife who is co-accused in the present matter. The respondent was admittedly not present at Delhi at the time of the incident which took place at 175, South Avenue, New Delhi and further the respondent was allegedly not residing at 175, South Avenue, New Delhi due to the strain relation. It is the case of the respondent that the respondent had got guest accommodation at 126, South Avenue, New Delhi since 2010 and residing there upon as well as operating his office from the said accommodation. The divorce petition is pending in the court of law between the respondent and his estrange wife since 2012 which is prior to the date of incident as there was no cordial relationship between both of them.

At present, no cogent evidence has been brought on record which would show that the respondent has instigated or prompted his wife co-accused to commit alleged offence.

28. It is the admitted position that first information was given by the respondent to the police at the first instance when he reached Delhi as the respondent was in his constituency Jaunpur, UP at the time of incident. Till about 9 PM on the same day the respondent had not visited the place of alleged incident, which is clear from the report of CFSL. At the time of incident as per prosecution case, he was in his constituency in Jaunpur area. He had received a telephone call from his wife from Delhi regarding death of their maid servant at Flat No 175, South Avenue, New Delhi. The information about her death was given to the Police by the respondent which is even recorded in DD entry.

29. The trial court by its order dated 20th November, 2013 had held that "It is most necessary to ensure their safety and security so that at the appropriate time they feel free to voluntarily depose before the court of law. Without any fear, coercion or duress from any quarter. Therefore a copy of the order to be sent to the DCP, New Delhi to provide protection to the principal witnesses Rampal and Meena till the time the recording of their evidence is concluded at the time of trial.

In the present case, no incriminating evidence has been brought by the petitioner which could create an adverse opinion

regarding the conduct of respondent after the grant of bail or he has threatened any witness or has tried to run away from justice.

30. In view of the above said facts and settled law as discussed, I do not agree with the submission of the petitioner that the trial court has passed illegal order. The same cannot be set aside in view of settled law. However, it is correct that the charge is yet to be framed and thereafter the evidence of two material witnesses are yet to be recorded in the trial court. It can also not be denied that the respondent is facing trial in other criminal matters. Thus, this court is of the considered opinion that the fair trial be conducted in the matter. Under these circumstances and from the entire gamut of the matter, I am of the view that so far as prayer made in the present petition for cancellation of bail is concerned, the same as it is, cannot be allowed in the absence of any evidence of the violation of any condition. The other argument of the petitioner's counsel that the trial court has not assigned any reason while granting the bail is not correct as it is a well reasoned order. But, I am of the view that in the nature of the present matter and the involvement of the respondent in other criminal cases, the said impugned order is liable to be modified by imposing additional conditions.

31. The additional conditions, which will come into operation with effect from 1st May, 2015 are as follows:-

- a) That the respondent Dhanajay Singh (ex-MP) from Jaunpur shall not visit and stay within the territory of Delhi and UP

(except Lucknow where his father is residing who is suffering from many ailments) unless the evidence of two witnesses i.e. Rampal and Meena is recorded. He would visit Delhi only for the purpose of Court hearing in the morning and leave Delhi on the same day. He will not approach the two witnesses or their relatives. Subject to these additional conditions, the order passed on regular bail during trial shall continue. In case of any violation, the petitioner would be entitled to file the application for cancellation of bail.

- b) The trial court within the period of one month from today to hear the arguments and frame the charge in the matter. The prosecution shall produce the two material witnesses before the trial court who will complete the evidence within the period of next two months.
- c) The respondent after recording the evidence of two above mentioned witnesses would be entitled to move an application for relaxation of the conditions imposed by this Court.

32. With these directions, the present petition is disposed of.

(MANMOHAN SINGH)
JUDGE

APRIL 22, 2015