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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 2894/2015**
ASHIMA CHOPRA

..... Petitioner

Through: Mr. Abhijat Bal, Mr. Rajesh Chugh &
Ms. Manmeet, Advs.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Rajesh Mahajan, ASC with
Ms. Parul Jamwal, Adv. for the State

CORAM:
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER
% **09.12.2015**

Crl. M.A.18000/2015

Exemption granted subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2894/2015

The petitioner was earlier granted bail by the learned Additional Sessions Judge-04 cum Special Judge (NDPS) South East in connection with FIR No.69/2014 (P.S. EOW) instituted for offences under Sections 420 and 120B of the IPC.

The Trial Court, on that occasion, had taken note of the fact that the husband of the petitioner, who is the main accused, was not to be found as he was somewhere in Malaysia. The court below was of the view that for the non appearance of the husband of the petitioner, she could not been kept

in jail for eternity. Hence, the petitioner was granted bail. The aforesaid order granting bail to the petitioner was set aside by High Court vide order dated 03.09.2015 passed Crl. M.C. 3063/2015. The High Court was of the view that certain considerations, which ought to have weighed with the Trial Court, were not even considered.

Thereafter the petitioner challenged the aforesaid order of the High Court before the Supreme Court of India. Though the SLP was dismissed, the petitioner was given the liberty to approach the appropriate forum at appropriate stage.

After passage of some time, the petitioner again preferred an application for bail before the court below. By that time, the husband of the petitioner had been declared a proclaimed offender.

By order dated 03.12.2015, the court below refused to entertain the application merely on the ground that earlier the High Court had set aside the order granting bail to the petitioner.

Learned counsel for the petitioner assails the aforesaid order on the ground that the court below ought to have taken into account the developments and should have passed an order on merits as was directed by the Hon'ble Supreme Court of India. The petitioner was, as stated earlier, directed by the Apex Court to approach the appropriate authority at appropriate time.

This Court is of the view that the Trial Court should have discussed the merits of the case and should have decided the bail application without being prejudiced by the fact that earlier the bail order was set aside by the High Court. The court below should also have looked into the developments which took place in this case and decided the matter.

Learned counsel for the petitioner seeks permission to withdraw this petition in order to enable him to apply afresh for bail before the court below with all the grounds which have been raised in the present petition.

The petition is permitted to be withdrawn with a direction to Trial Court that as and when such bail application comes up for consideration, the same be decided without being prejudiced by the fact that earlier an order of bail was cancelled by the High Court or that the present writ petition, challenging the order refusing to grant bail to the petitioner, has been withdrawn.

Dismissed as withdrawn with liberty and directions as aforesaid.

A copy of this order be given dasti under the signature of Court Master.

ASHUTOSH KUMAR, J

DECEMBER 09, 2015

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