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

+ CRL.REV.P. 17/2016

PAWAN ARORA

..... Petitioner

Through: Mr.Pradeep Teotia & Mr.Ajit Dhama,
Advocates

versus

THE STATE (GOVT NCT OF DELHI) & ANR

..... Respondents

Through: Ms.Kusum Dhalla, APP for the State
Mr.I.R.Singh, Advocate for R-2

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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09.03.2016

1. The petitioner has invoked the revisional jurisdiction of this Court feeling aggrieved by the order dated 23rd November, 2015 whereby the bail granted to the petitioner was cancelled by learned ASJ.
2. The order dated 7th September, 2015 passed by learned Metropolitan Magistrate whereby bail was granted to the petitioner is to the following effect:-

“Application is moved on behalf of the applicant stating that he is innocent person and he is implicated in this false case. He is in custody since 19.06.2015. It is submitted by the counsel that the earlier application for bail was dismissed by this Court as well as by the Court of Sessions before filing of the charge-sheet. And it is the 1st bail application after filing of charge-sheet. Accused is ready to abide by all the conditions which may be imposed upon him for grant of bail. Hence, he may be given the benefit of bail.

Ld.APP for State opposed the application stating that the applicant may jump the bail. Hence, accused may not be given bail.

Arguments heard on the bail application.

Applicant/accused was arrested on 19.06.2015 for the alleged commission of offence and since then he is in custody. The investigation has already been completed and charge-sheet has also been filed. Court finds that at this stage no any fruitful purpose will be served by keeping the accused behind the bars for some more time. Keeping in view the entire facts, applicant/accused Pawan Arora is admitted to bail on furnishing PB/SB in the sum of ₹ 30,000/- each.”

3. Vide impugned order dated 23rd November, 2015 while dealing with the application filed by the complainant/respondent No.2., Jai Prakash seeking cancellation of the bail of the present petitioner, learned ASJ cancelled the bail granted to the petitioner interalia on the following grounds:-

“It is also imperative to note that though the non applicant-accused Pawan Arora was admitted to bail on 07.9.2015 by learned Trial Court, but on 06.08.2015, the bail of co-accused Tara Chand was rejected by the same learned Trial Court by passing a detailed order mentioning the fact that a fake I card of accused Chavi @ Shavi is yet to be arrested. On these very grounds, the bail of accused Tara Chand was rejected by the learned Trial Court on 06.08.2015 whereas while considering the application of non-applicant Pawan Arora on 07.09.2015, all these factors were not considered by the learned Trial Court and order of learned Court is silent about these facts, by which the bail has been granted to the applicant-accused Pawan Arora.”

4. Learned counsel for the petitioner has submitted that investigation in the matter has already been completed. The petitioner has remained in custody for about three months in this case before he had been ordered to be

released on bail.

5. Learned counsel for the petitioner has further submitted that petitioner allegedly received ₹ 2 lakhs in this transaction which he is ready to deposit and the bail granted to him may be restored.

6. The legal position is well settled that conditions for cancellation of bail are different from conditions of grant of bail. No doubt there is no absolute rule that bail once granted cannot be cancelled but several factors are to be considered while deciding an application seeking cancellation of bail.

7. In **CBI, Hyderabad Vs. Subramani Gopalakrishnan and Anr., (2011) 5 SCC 296**, the Hon'ble Supreme Court observed as under:-

“It is also relevant to note that there is difference between yardsticks for cancellation of bail and appeal against the order granting bail. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail already granted. Generally speaking, the grounds for cancellation of bail are, interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concessions granted to the accused in any manner. These are all only few illustrative materials. The satisfaction of the Court on the basis of the materials placed on record of the possibility of the accused absconding is another reason justifying the cancellation of bail. In other words, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.”

8. When the case of the petitioner is examined in the light of above legal principles, I find that learned ASJ was not justified in cancelling the bail granted to the petitioner merely because certain factors were not discussed

by the learned Metropolitan Magistrate while granting bail.

9. In the given facts and circumstances the impugned order cancelling the bail of the petitioner is set aside and the petitioner is directed to be released on bail subject to his furnishing personal bond in the sum of ₹30,000/- with one surety of the like amount to the satisfaction of concerned Court/Link Court with the following condition:-

(i) The petitioner shall deposit ₹ 2 lakhs within one week and further ₹ 3 lakhs within six weeks thereafter with the Registrar General.

(ii) The amount deposited by the petitioner shall be kept by learned Registrar General in UCO Bank, Delhi High Court Branch in the form of FDR which shall be initially for a period of two years with auto renewal facility.

(iii) The amount deposited by the petitioner in the form of FDR shall be subject to the outcome of the decisions of the learned Trial Court in case FIR No.224/2014 under Sections 420/468/471/34 IPC at PS I.P.Estate.

10. The petition stands disposed of in above terms.

11. A copy of the order be given *dasti*.

PRATIBHA RANI, J.

MARCH 09, 2016

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