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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ CRL.M.C. 735/2014
MANNU

..... Petitioner

Through Mr D.K. Singh, Adv.
versus

THE STATE & ANOTHER

..... Respondent

Through Mr Akshai Malik, Additional Public Prosecutor
for the State alongwith Sub Inspector Sonal Raj
Police Station New Usmanpur, Delhi
Mr Arvind Kumar and Ms Sneha Upadhyay,
Advs. for R2

CORAM:
HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER
28.04.2016

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Vide this application under Section 439(2) of Code of Criminal Procedure, the petitioner seeks cancellation of anticipatory bail granted to the respondent no.2 by this Court vide order dated 19.12.2013 passed in bail application number 2383/2013 in case FIR No.343/2013 under Ss. 323/341/354/354A/354B IPC and under S. 12 of POCSO Act primarily on the ground that the respondent no.2 is misusing the concession of bail and has been extending threats to the petitioner to withdraw the case otherwise he alongwith his associates will kill her. It is alleged that on 05.12.2013 at about 9 pm the respondent no.2 alongwith his associates trespassed into the house of the petitioner, gave beatings to her and on raising alarm by other tenants and on their intervention the respondent no.2 and his associates left the petitioner with threats to either withdraw the case or she will be killed. Again on 05.01.2014, she was threatened as such the respondent no.2 does not deserve the benefit of bail and the same be cancelled.

The application is opposed by counsel for the respondent no.2.

The parameters for grant of bail and cancellation of bail due to supervening circumstances are entirely different. There is a distinction between the factors relevant for granting bail in a non-bailable case and for cancellation of bail. In ***Dolat Ram and Ors. vs. State of Haryana***, (1995) 1 SCC 349, a distinction between the factors relevant for rejecting the bail in a non-bailable case and cancellation of bail already granted was brought out by observing:

"Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and

overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) 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 concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, 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."

As per various status reports filed by the State, the complainant in the present case registered against the respondent no.2 and a cross case was also got registered on the complaint of Smt Premlata wife of Chander Prakash (respondent no.2 herein). The investigation revealed that there is a dispute over the property. Various cases have been filed against each other. As regards the allegations made by the petitioner regarding threats given to the complainant on 05.01.2014, it is reported that an enquiry was got conducted by Sub Inspector Sonal Raj and it was revealed that neither any complaint was made on 05.01.2014 nor any PCR call was made regarding the incident. Efforts were also made to contact the complainant but she did not cooperate as she did not give any statement regarding the allegations. Enquiry was also made in the vicinity of the complainant but no eye witness was found. Pursuant to the directions given by this Court further enquiry was carried out and statement of complainant was recorded wherein she stated that she did not make any PCR call on 05.01.2014 regarding the alleged incident. As such, it is reported that no evidence has been found to substantiate the allegations made by the petitioner. Further, much water has flow since 05.01.2014 as it is submitted that almost entire prosecution evidence has been completed.

That being so, there is no ground for cancellation of bail of the respondent no.2.

The application/petition is accordingly dismissed.

SUNITA GUPTA, J

APRIL 28, 2016/rd