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

+ **CRL.REV.P. 530/2014**

RAKHI

..... Petitioner

Through: Mr.M.Amanullah, Advocate with
petitioner in person.

versus

STATE & ORS.

..... Respondents

Through: Ms.Kusum Dhalla, APP for the
State/R-1.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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04.02.2016

Crl.M.A. No.13649/2014

1. For the reasons stated in the application, 135 days' delay in filing the revision petition is condoned.
2. Application stands disposed of.

CRL.REV.P. 530/2014

1. The petitioner/complainant is aggrieved by the order dated 03.01.2014 whereby the learned ASJ refused to cancel the bail granted to respondent No.2 and 3 herein namely Puran Chand – brother-in-law (jeth) and Asha Devi – mother-in-law of the complainant.
2. Complainant is present in person alongwith her counsel. She submits that the terms and conditions of the mediation settlement have not been fully complied with by respondents No.2 and 3.

3. The learned ASJ while refusing to cancel the bail of respondents No.2 and 3 has observed as under:-

'In consideration of the submissions, I also perused the file and found that on 27.07.2013, both the applicants were admitted to anticipatory bail by this Court as per the mutual settlement arrived between the parties in the Mediation Centre, Karkardooma Court, New Delhi. So, I also perused the order of the mediation arrived between the parties and as per the mediation, R-2 Asha Devi relinquished her rights over 1st and 2nd floor of the house in favour of the complainant Rakhi and her son namely Aditya and in the open Court, the complainant has flatly refused to comply with 4th clause of the mediation settlement in which it is settled that Rakhi shall make the payment of ₹11 lacs to Munni Devi @ Asha Devi within 6 months where Munni Devi shall relinquish her right over ground floor also in favour of Rakhi and her son Aditya.

So keeping in view the facts and circumstances, I am of the view that there is no force in the application u/s 439(2) Cr.P.C. for cancellation of the bail of the respondents Puran Chand and Asha Devi @ Munni Devi on the ground of non-compliance of the terms and conditions of the mutual settlement arrived between the parties in the Mediation Centre. I, therefore, dismiss the application.'

4. In the case ***Harari Lal Das vs. State of West Bengal and Anr.***, the Supreme Court has dealt with the grounds to be considered while granting bail and those to be kept in mind while interfering with the order granting bail. The relevant paras of the report as extracted hereunder :

'8. Although the High Court did notice in the impugned order that the considerations which should be in the mind of the Court while considering the prayer for grant of bail are not the same for the purpose of cancellation of bail, yet we find that these considerations were not kept in mind and the order of the Sessions Judge granting anticipatory bail was set aside.

9. *In Dolat Ram And Ors. v. State of Haryana (1995) 1 SCC 349, this Court held :*

4. 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. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non-bailable case in the first instance and the cancellation of bail already granted.'

5. The legal position is well settled that the grounds to be considered by the Court while granting bail are different from the grounds required to be satisfied for seeking cancellation of bail.

6. In the instant case, merely because all the terms and conditions of the

settlement are not complied with by respondents No.2 and 3 in a case under Section 498-A/406 IPC is no ground to cancel the bail granted to respondents No.2 and 3.

7. The impugned order does not warrant any interference by this Court in exercise of its revisional jurisdiction.

8. The revision petition is dismissed.

PRATIBHA RANI, J.

FEBRUARY 04, 2016

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