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

+ CRL.M.C. 5029/2014

SHIVANI (MINOR) THR. HER FATHER PURAN PANCHAL

..... Petitioner

Represented by: Ms. Smriti Asmita, Adv.

versus

STATE (GOVT.OF NCT OF DELHI) & ORS. Respondent

Represented by: Mr. Hirein Sharma, with SI
Pawan Kumar, PS Harsh Vihar.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

18.07.2016

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By the present petition, the petitioner seeks cancellation of bail granted to respondent No.3 vide order dated 8th September, 2014 by the learned Additional Sessions Judge. While granting bail, the learned Additional Sessions Judge was impressed by the fact that there was exchange of messages between respondent No.3 and the prosecutrix showing that they were in regular touch with each other and thus it appeared to him that prima facie this could be a case where respondent No.3 was implicated at the instance of family of the prosecutrix. Since investigation was complete and accused was no more required for further investigation and there was no fear of causing harm to the prosecutrix, learned Additional Sessions Judge admitted respondent No.3 on bail subject to his furnishing personal bond and surety bond in the sum of ₹25000/- with the condition that he will not leave the jurisdiction of the court without prior permission of

the court and will not influence the witnesses and try to tamper with the evidence.

By the present petition, the petitioner pointed out that after release from jail, respondent No.3 started harassing the petitioner and threatening her to withdraw her complaint or will face dire consequences. An incident of 19th September, 2014 has been reported wherein it is alleged that respondent No.3 had threatened the prosecutrix while she was going to school to change her statement or else he will throw acid on her face.

In the present petition, notice was served on Respondent No.3. However on 15th April, 2015 after notice was served, despite a pass over none was present on behalf of respondent No.3 Again on 13th July, 2015 since none was present on behalf of respondent No.3 despite service, this Court directed fresh service on respondent No.3 through concerned SHO. On 9th September, 2015 respondent No.3 entered appearance and sought time to file reply which was granted. Respondent No.3 was directed to remain present on the next date. However on 20th November, 2015 respondent No.3 was not present thus the Court proceeded it ex-parte. Again on 24th February, 2016 and 16th May, 2016 when the matter was taken up, none was present on behalf of respondent No.3 Same is the position today.

A perusal of the status report would reveal that for the incident of 19th September, 2014, an FIR No.439/2014 under Section 323/341/504/506/34 IPC was registered at PS Harsh Vihar. According to learned APP for the State on instructions from the investigating officer, a charge sheet has been filed in the said FIR.

In view of the fact that prima facie a case has been found out that after

grant of bail, respondent No.3 is threatening the petitioner and her evidence is yet to be recorded, it is a fit case where the concession of bail granted to respondent No.3 by learned Additional Sessions Judge vide order dated 8th September, 2014 is required to be cancelled. Thus, the bail bond and surety bond furnished by respondent No.3 before the learned Trial Court are cancelled. The investigating officer is directed to take respondent no.3 in custody and produce him before the learned Trial Court who will then send him to Tihar Jail.

Petition is disposed of. Order dasti.

MUKTA GUPTA, J.

JULY 18, 2016
‘v mittal’