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

+ **CRL.M.C. 3043/2016 & CrI.M.A. 13086/2016 (stay)**

PARUL BANSAL

..... Petitioner

Represented by: **Ms. Shilpi Jain, Mr. Parma
Nand, Advs.**

versus

STATE & ORS.

..... Respondent

Represented by: **Mr. Amit Ahlawat, APP with
SI G. Singh, PS CWC
Nanakpura.
Mr. Parvinder Chauhan, Ms.
Rakhi Budhiraja, Advs. for R-2
to 4.**

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

19.04.2017

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1. By this petition the petitioner seeks cancellation of bail of respondents No.2, 3 and 4 and quashing/ setting aside of impugned orders dated 23rd June, 2016 and 6 August, 2016 passed by the learned Metropolitan Magistrate. The ground urged by the petitioner before this Court for seeking cancellation of the bail granted and setting aside of the impugned orders as noted above is that since in the orders granting bail on 6th August, 2016 though it is directed that the respondents No.2 to 4 will not leave the country without the prior permission of the Court concerned, however the

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respondents No.2 to 4 can still mis-utilize and flee from the country, thus evading the process.

2. FIR No.37/2015 under Sections 498A/406/509/34 IPC was registered at PS CAW Cell, Nanak Pura on the complaint of the petitioner against respondents No.2, 3 and 4. It is the case of the petitioner that respondent No.2 was stopped at Indra Gandhi International Airport on 29th August, 2015 while he was trying to leave the country and evade the process of law. The learned Metropolitan Magistrate vide order dated 16th September, 2015 directed respondent No.2/ Gaurav Bansal to surrender the passport, however he flouted the said order and refused to surrender. On 17th December, 2015 and 23rd December, 2015 in Bail Application No. 2721/2015 filed by Gaurav Bansal, vide order dated 17th December, 2015 this Court while granting interim protection directed Gaurav Bansal not to leave the country without prior permission of the Court concerned and surrender the passport before the learned Trial Court. In Bail Application Nos.2784/2015 and 2786/2015 filed by G.C. Bansal and Madhu Bansal this Court on 23rd December, 2015 granting interim protection directed the petitioners therein to surrender his/her passport also.

3. Be that as it may, respondent No.2/ Gaurav Bansal surrendered his passport before the learned Metropolitan Magistrate on 17th December, 2015 whereas Madhu Bansal and G.C. Bansal's passport were surrendered before the Trial Court on 24th December, 2015 by Gaurav Bansal. Thus, all the three passports as on date are lying in the custody of the learned Trial Court.

4. The grievance of the petitioner is that after interim protections were granted in the anticipatory bail applications by this Court and directions

were issued to surrender the passports, the petitioners withdrew the bail applications. Hence the interim orders were not confirmed. Further since the charge-sheet was filed without arrest, the three accused appeared before the learned Trial Court on 6th August, 2016 and though there was no bail application filed by the three accused, the learned Metropolitan Magistrate granted them bail vide impugned order dated 6th August, 2016 which reads as under:

“Heard on bail.

Complainant opposes the grant of bail stating that anticipatory bail application was dismissed and the offences are non-bailable. It is also argued that custodial interrogation of accused was necessary in this case and the conduct of accused does not entitle him of the liberty of bail. Complainant has been apprised that the accused was not arrested during investigation and therefore, no purpose will be served by taking him in custody now.

Since the challan was filed without arrest, accused are admitted to bail on furnishing bail bond and surety bond in sum of ₹25,000/- and subject to condition that they will not go abroad without prior permission of court. Bail bond furnished and accepted. Be verified by NDOH.

Accused submits that the three CDs filed along with the charge-sheet are not supplied to him.

Issue notice to SHO/IO to supply copies of CDs to accused.

Put up for supplying CDs on 07.10.2016.

Copy of the order be given dasti to complainant.”

5. As noted above, there was no condition of deposit of passport in the final order granting bail to the respondents No.2 to 4 on 6th August, 2016 and the only order passed was that the respondents No.2 to 4 will not leave the country without the prior permission of the Court concerned. Even if

there is no direction in the order dated 6th August, 2016 granting bail to the respondents No.2 to 4 for depositing of the passport as noted above, the passports of respondents No.2 to 4 have already been deposited before the learned Trial Court. As and when respondents No.2 to 4 seek release of the passports to them, they would have to file an application necessarily before the Trial Court.

6. This Court finds no ground to cancel the bail granted to the respondents No.2 to 4 as there is no allegation of misuse of the concession and only an apprehension has been expressed by the complainant that the respondents No.2 to 4 may flee the country without even seeking the permission of the Court concerned. The said apprehension is no ground to cancel the bail of the respondents No.2 to 4.

7. To allay the apprehension expressed by the petitioner it is directed that as and when an application is filed by the respondents No.2 to 4 for release of the passports, notice of the same would be given to the petitioner/complainant.

8. Petition and application are disposed of.

MUKTA GUPTA, J.

APRIL 19, 2017

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