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

+ CRL.M.C. 3486/2017

ARUNA DORWAL

..... Petitioner

Through

Mr. Pramod Kumar with Mr. S.N.
Gautam, Advs.

versus

STATE & ANR

..... Respondents

Through

Dr.M.P. Singh, APP.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

%

31.08.2017

CRL. M.A. 14184/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CRL.M.C. 3486/2017

The petitioner has sought cancellation of bail of the respondent No.2.

The respondent No.2 was granted bail on 27.12.2016 by the learned Special Judge (NDPS)/Vacation Judge, South District in connection with FIR No.722/2016 (P.S.Ambedkar Nagar) which was instituted for the offence under Section 376 of the IPC.

The petitioner had alleged that she had become friendly with the respondent No.2 and had entered into physical relationship with him as the respondent No.2 had promised to marry her. The respondent No.2 was already married but had assured her that he shall divorce his wife and would

marry the petitioner/complainant. The statement of the petitioner/complainant was also recorded under Section 164 of the Code of Criminal Procedure in which certain facts other than what was stated in the complaint, were incorporated. Finally, it was alleged by the petitioner/complainant that the respondent No.2 refused to divorce his wife.

The respondent No.2 was granted bail by the Court below on the ground that the petitioner/complainant was an adult and was admittedly staying as neighbour of respondent No.2. The Court below was of the view that there was consensual relationship without there being any pressure, force or perhaps any inducement.

Since the respondent No.2 had been arrested in the case, there was no further requirement of any custodial interrogation for completing the investigation. While granting bail, the Court below directed the petitioner to join investigation and refrain from influencing any witness of the case.

The petitioner thereafter preferred an application for cancellation of bail of respondent No.2 on the ground that at the time of recording of the statement under Section 164 of the Cr.P.C, she was mentally upset and could not state correct facts. The Court below refused to entertain such application on the ground that when bail was granted, the petitioner/complainant was present in Court and had been afforded a patient hearing.

With respect to the allegation of the petitioner/complainant that the respondent No.2 had been harassing her and for which she had made a complaint to the SHO of the Ambedkar Nagar Police Station, the Court below called for the action taken report from the SHO concerned who informed that the petitioner/complainant had received a call from the mobile number of one Vijay Chauhan who is well known to the

petitioner/complainant.

No good ground has been made out on behalf of the petitioner for cancellation of the bail of respondent No.2.

It is a settled law that there are different parameters for grant of bail and cancellation of bail. With the grant of bail, a valuable right accrues to a person which cannot be taken away lightly.

The Court below has rightly rejected the prayer of the petitioner/complainant for cancelling the bail of respondent No.2.

This petition is, therefore, dismissed.

ASHUTOSH KUMAR, J

AUGUST 31, 2017

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