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

+ CRL.M.C. 6314/2018 and CrI.M.A. 49486-49487/2018

SMT. SARITA

..... Petitioner

Through: Mr. Ashutosh Bhattacharjee, Adv.

versus

STATE & ANR.

..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for the
State

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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18.12.2018

The Bail Application No.1048/2018 of the second respondent Jitender Thakur in the context of FIR No.99/2018 of Police Station Pahar Ganj involving offences under Sections 376/506 of the Indian Penal Code, 1860 (IPC) was listed by order dated 01.06.2018 of the learned Single Judge of this court for 12.07.2018. On an application (CrI.M.A. 11435/2018), moved by the said person, the date 12.07.2018 was cancelled and the matter was listed before the roster bench on 05.07.2018 by the vacation Judge. The said application was granted by order dated 05.07.2018 on the basis of submissions of the State.

The grievance of the petitioner essentially is that she was not heard, she being the complainant of the case. By the petition at hand she seeks cancellation of the said bail order under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.).

The counsel for the petitioner has been heard at length and the documents submitted with this petition, as also the record of Bail

Application No.1048/2018, which was called for perused.

The prime contentions on which the bail order was granted to second respondent on 05.07.2018 do not change. It is clear from the documents on record that the petitioner had entered into physical relationship with the second respondent out of her own free volition, such relationship having continued for about four-five years, it seemingly having got broken down upon she learning that he was a married person. The petitioner herself is a married woman with three children, her husband having abandoned her.

The submissions that in the FIR No.99/2018 it was wrongly mentioned that the information had been received only on 17.04.2018 is incorrect in the face of her earlier complaint dated 14.04.2018, may be a circumstance that may be agitated in the course of investigation or at trial. But it by itself does not mean the bail order in favour of the second respondent was erroneously granted.

Reference to the criminal case arising out of FIR No.100/2018 of Police Station Pahar Ganj involving offences under Sections 354/354-A/451/406 IPC against the son of the petitioner at the instance of wife of the second respondent also does not make out a case for cancellation of bail since it cannot be assumed that the said criminal case brought before Juvenile Justice Board is false.

The petition and the applications filed therewith are dismissed.

R.K.GAUBA, J

DECEMBER 18, 2018/vk

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