

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved for orders on : 21.08.2019

Order passed on : 04/10/2019

CRMP No. 1586 of 2019

- Sreejata Das D/o Late Shyamal Das, Aged About 32 Years, Present Address- Daspara, Kolkata, West Bangal. At Present R/o Sarkanda, District- Bilaspur, Chhattisgarh. District : Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh Through The Station House Officer, Police Station- Sarkanda, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Deepak Lalwani @ Shubham Lalwani S/o Mahesh Lalwani, Aged About 22 Years, R/o Lalbag, Sindhi Colony, Gali No.7, Police Station- Basantpur, District- Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh

-----Respondents

For Petitioner	: Ms. Sreejata Das, petitioner in person.
For State/respondent No.1	: Mr. Ghanshyam Patel, Govt. Advocate.
For Respondent No.2	: Mr. M.P.S. Bhatia, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV Order

04/10/2019

1. This petition has been brought under Section 439(2) of the Cr.P.C. praying for cancellation of bail granted to respondent No.2 by order dated 21-06-2019 in MCRCA No.894 of 2019.
2. It is submitted by the petitioner in person that misleading facts were brought before this Court by respondent No.2 to obtain anticipatory bail. The respondent No.2 has made believe the petitioner that he will

marry her and established physical relation with her on numbers of occasions. The falsity on the part of respondent No.2 is established for the reason that he concealed his real name as Deepak Lalwani and introduced himself as Shubham Lalwani to the petitioner, therefore, his intention of cheating was present from the very beginning. On various occasions respondent No.2 has obtained benefits and money from the petitioner and then he has made a false allegation in the bail application that the petitioner is aged 32 years and a divorcee to mislead the Court, whereas, the fact is this, that the petitioner is unmarried till today. It is further submitted that respondent No.2 has breached the condition of grant of anticipatory bail as he is continuously harassing, torturing the petitioner to compromise in the case against him and that is breach of condition No.2 in para 7 of the order dated 21-06-2019. Copy of call records are presented before the Court by the petitioner showing number of calls made by respondent No.2 to the petitioner. It is submitted that respondent No.2 is very clearly harassing the petitioner to persuade her to make false statement before the Court. It is also submitted that on the date the application was argued, WPCR No.334 of 2019 filed by this petitioner was pending before the coordinate Bench in which there was specific order passed on 14-05-2019 for making arrest of respondent No.2 which was deliberately suppressed to obtain anticipatory bail from this Court. Therefore, it is prayed that the petition be allowed and the bail granted to respondent No.2 be canceled.

3. Learned counsel for the State makes formal opposition of the petition.
4. On behalf of respondent No.2 it is submitted that respondent No.2 has not suppressed anything or concealed any thing before this Court

while he made a prayer for grant of anticipatory bail. This Court has observed in the order granting bail that there is some financial dispute and the veracity of the same needs to be examined, also the factum of age difference is also observed. Therefore, the anticipatory bail application was allowed. Respondent No.2 has never misused the liberty granted and breached any condition for grant of bail. Therefore, it is prayed that the application may be rejected.

5. Heard learned counsel for the parties and perused the documents.
6. After considering on the submissions made from both the sides, the facts of the case cannot be re-appreciated as it may amount to review of the order passed by this Court in MCRCA No.894 of 2019. According to the principle laid down in the matter of **Abdul Basit alias Raju and others Versus Mohd. Abdul Kadir Chaudhary and another**, (2014) 10 SCC 754, there only ground for cancellation of bail which can be entertained in this case are the ground raised that the respondent No.2 has breached the condition of grant of bail and as alleged by the petitioner he is continuously giving inducement to the petitioner to compromise and withdraw her statement made to the police and secondly the concealment of the factum of pendency of WPCR No.334 of 2019 against respondent No.2.
7. As it is a case where the petitioner has come before the Court in person, therefore, it was not possible to insist for compliance of procedure of filing the documents etc. and the documents filed by the petitioner have been accepted on record. The mobile call details of the petitioner and respondent No.2 clearly show that respondent No.2 had been in contact by making conversation with the petitioner even after the bail was granted by this Court, which is supported with the

submission of the petitioner that she was being convinced by respondent No.2 for compromise and withdraw her statement earlier given to the police. This act by itself is against the condition imposed in granting anticipatory bail to the respondent no.2 in clause (ii) of para 7 of the order dated 21-06-2019. Other ground of suppression of fact regarding pendency of WPCR No.334 of 2019 cannot be taken into consideration as the respondent No.2 did not have notice of the same at that time. Therefore, finding that respondent No.2 has committed breach of condition of the order passed by this Court in MCRCA No.894 of 2019 dated 21-06-2019, I feel inclined to allow this petition.

8. Consequently, the petition is allowed and bail granted to respondent No.2 in MCRCA No.894 of 2019 by this Court vide order dated 21-06-2019 is canceled. Respondent No.2 is directed to surrender before the concerned Police Station and in case if charge sheet has been filed, then to surrender before the said Court.

Sd/-
(Rajendra Chandra Singh Samant)
Judge