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

+ **CRL.REV.P. 743/2018 & CrI.M.A. 30961/2018**

+ **CRL.REV.P. 744/2018 & CrI.M.A. 30963/2018**

STATE OF NCT DELHI

..... Petitioner

Through: Ms. Neelam Sharma, Additional
Public Prosecutor for State with SI
Vineet Kumar.

Versus

(i) SATVIR

(ii) RAMBAI

.....Respondents

Through: Mr. Kartickay Mathur, Advocate.

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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10.04.2019

In the above captioned two petitions, the challenge is to impugned order of 2nd February, 2018 which grants pre-arrest bail to respondent-accused in FIR No. 927/2017, under Sections 323/342/354/354B/365/394/186/353/506/509/147/148 etc. registered at police station Narela, Delhi.

With the consent of both the sides, both the petitions have been heard together and are being disposed of, by this common order.

Learned Additional Public Prosecutor for petitioner-State submits that respondent-Satvir had committed offence under Section 394 of IPC

and had also lynched the prosecutrix and the manner in which the offence has been committed does not justify grant of pre-arrest bail to respondent-accused persons. To submit so, attention of this Court is drawn to the statement of prosecutrix recorded under Section 164 Cr.P.C. on 19th December, 2017.

On the contrary, learned counsel for respondent-accused persons supports the impugned order and submits that instant case is a false case and respondent-accused persons have already joined the investigation and so, no case for setting aside the impugned order is made out.

The parameters governing cancellation of bail, as reiterated by Supreme Court in *Kanwar Singh Meena v. State of Rajasthan*, (2012) 12 SCC 180 are as under: -

“.....While cancelling the bail under Section 439(2) of the Code, the primary considerations which weigh with the court are whether the accused is likely to tamper with the evidence or interfere or attempt to interfere with the due course of justice or evade the due course of justice. But, that is not all. The High Court or the Sessions Court can cancel the bail even in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant materials indicating prima facie involvement of the accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in cancelling the bail. Such orders are against the well-recognised principles underlying the power to grant bail. Such orders are legally infirm and vulnerable leading to miscarriage of justice and absence of supervening circumstances such as the propensity of the accused to tamper with the evidence, to

flee from justice, etc. would not deter the court from cancelling the bail. The High Court or the Sessions Court is bound to cancel such bail orders particularly when they are passed releasing the accused involved in heinous crimes because they ultimately result in weakening the prosecution case and have adverse impact on the society. Needless to say that though the powers of this Court are much wider, this Court is equally guided by the above principles in the matter of grant or cancellation of bail.”

Upon hearing and on perusal of impugned order, statement of prosecutrix recorded under Section 164 Cr.P.C. and in the light of parameters highlighted by Supreme Court in *Kanwar Singh Meena (Supra)*, as highlighted above, I find that the role attributed to respondent-*Satvir* disentitles him to grant of concession of pre-arrest bail, as he has committed the offence in question in a most crude manner. However, no specific role is attributed to respondent-*Rambai* by prosecutrix in her statement recorded under Section 164 Cr.P.C. Impugned order ignores *prima facie* involvement of accused- *Satvir* in commission of serious offence in question and this results in miscarriage of justice. Grant of pre-arrest bail to respondent-*Satvir* adversely impacts the society. The heinousness of offence committed by respondent –*Satvir* persuades this Court to cancel the pre-arrest bail granted to him. However, pre-arrest bail granted to respondent- *Rambai* is justified in the light of allegations leveled against her.

Accordingly, impugned order, granting bail to respondent-*Rambai* is maintained but pre-arrest bail granted to respondent-*Satbir* is cancelled. Respondent-*Satbir* be taken into custody forthwith.

With aforesaid directions, these petitions and applications are accordingly disposed of, while not commenting on the merits of the case.

(SUNIL GAUR)
JUDGE

APRIL 10, 2019

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