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

+ **CRL.M.C. 1462/2020**

AMIT NATH @ DAVID @ SHIBHU

..... Petitioner

Through: Mr Ashwin Vaish, Mr V. Thomas and
Mr Vinod Pandey, Advocates.

versus

STATE & ANR.

..... Respondents

Through: Mr Kamal Kumar Ghei, APP for State
with Insp. Sushma Saxena, PS
Safdarjung Enclave, New Delhi.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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20.03.2020

CRL.M.A. 5727/2020

1. Allowed, subject to all just exceptions.

CRL.M.C. 1462/2020 & CRL.M.A. 5726/2020

2. The petitioner has filed the present petition, *inter alia*, impugning orders dated 29.02.2020 and 05.03.2020 passed by the Trial Court in proceedings emanating from FIR No. 46/2017 under Sections 363/366/376/380/506 of the IPC and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012, registered with PS Safdarjung Enclave.

3. The petitioner was granted bail by an order dated 24.12.2019 passed by this Court. The learned counsel appearing for the petitioner states that

after being released on bail, the petitioner appeared before the Trial Court on 05.02.2020.

4. It is alleged that after being released, the petitioner was trying to contact the victim through social media, therefore, the complainant (father of the victim) filed an application for cancellation of bail. The said matter was listed on 29.02.2020. However, the petitioner did not appear in court on the said date. His counsel was also not present. However, the petitioner's mother was present and she stated that the petitioner could not come to court as he was not well. On the court questioning her she stated that he was under medical treatment of a doctor. On being questioned further, she stated that she did not know the name of the doctor and could not provide any further details. She requested that the matter be held over to enable the petitioner to be present. At her request, the matter was passed over.

5. Thereafter, the matter was called on a number of occasions; however, none were present on his behalf. Since, no valid reasons were provided for the petitioner's non-appearance, Non-Bailable Warrants (NBWs) were issued against him. The petition was next listed on 05.03.2020.

6. Notice issued to the petitioner was received back with a note that "*premises were found locked*". The bail bond and surety bonds were verified, which indicated that the petitioner was residing at the address on which the notices were issued.

7. The report also indicated that the petitioner had gone to his house only for a day after he was admitted to bail and thereafter, his whereabouts were not known.

8. In the aforesaid context, the Trial Court had issued fresh NBWs against the accused and notice to the surety was also issued through the concerned SHO.

9. Given the aforesaid, this Court finds no infirmity with the order passed by the learned Trial Court. It is apparent that the petitioner has been avoiding the process of law and this Court is of the view that the said conduct is sufficient to cancel the bail already granted to the petitioner. However, this Court is refraining from passing any order since the Trial Court is *in seisin* of the same.

10. The petition is dismissed with the aforesaid observations. The pending application is also disposed of.

VIBHU BAKHRU, J

MARCH 20, 2020
MK