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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5952/2019 & CRL.M.A. 40885/2019**
PALLAVI CHATURVEDI Petitioner
Through: Mr. Salman Hashmi, Adv.

versus

STATE & ANR Respondents
Through: Mr. Ashok Kr. Garg, APP for State
with Inspr. Sanjeev.
Mr. Rajesh Ranjan, Adv. for R-2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

% **ORDER**
21.09.2020

The petitioner vide the present petition under Section 482 r/w 439 (2) of the Cr.PC, 1973 seeks cancellation of the bail granted to the respondent no.2 vide order dated 24.10.2019 of the learned MM (Mahila Court-01), New Delhi.

As per the status report dated 10.09.2020 submitted by the SHO, Vasant Kunj (North), FIR bearing No.599/2018 dated 05.11.2018 under Sections 354D/509 of the IPC and Section 67 of the IT Act and another FIR bearing No.164/2019 dated 25.07.2019 under Sections 354D/509 of the IPC and Sections 67A/67 of the IT Act were registered against the respondent no.2.

The applicant vide the order dated 24.10.2019 of the learned MM (Mahila Court-01), New Delhi in relation to FIR No.164/2019, PS Vasant Kunj (North) was allowed to be released on bail on furnishing a personal

bond of Rs.25,000/- with one surety of the like amount subject to terms and conditions as imposed thereby to the effect:

- “i) That he shall not indulge into any offence of similar nature again for which he is charged in the present case;*
 - ii) That he shall co-operate in the investigation- and will appear before the Investigating agency or the Court as and when required.*
 - iii) That he shall not directly or indirectly make any inducement, threat or any promise to complainant/any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.*
 - iv) He shall not contact the complainant or the family members of the complainant in any manner whatsoever.*
- Violation of the bail terms shall be viewed strictly and shall invite adverse action/ coercive steps against the accused.”*

Vide the said order, specific directions imposed thereby were to the effect that the respondent no.2 who was granted bail vide the said order would not directly or indirectly make any inducement, threat or any promise to complainant/any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence and would not contact the complainant or the family members of the complainant in any manner whatsoever with it having been strictly directed that the violation of the bail terms would be viewed strictly and would invite adverse action/ coercive steps against the accused.

Significantly, at the time of consideration of the said bail application by the learned trial Court, it was observed to the effect:

“The accused was arrested on 25.08.2019 and has been in custody since then. Though there are chances of repetition of

the offence, however, the accused cannot be incarcerated for life. He has been in custody for last two months approximately. Considering the overall facts and circumstances of the case including the fact of the mental ill-health and dependence of his family on him and the fact that investigation has been completed and the charge-sheet has been filed, so this Court is of the view that no fruitful purpose would be served by keeping the accused Dhananjay Rai behind the bars. Accordingly, bail application is allowed.”

Vide the present petition, the petitioner, the complainant of the FIR in question has submitted to the effect that the respondent no.2 even after the order dated 24.10.2019 vide which he was granted bail continued to commit offences and did not refrain from his acts of sending vulgar and obscene messages to the petitioner and has been *inter alia* sending images of dead bodies, dead people, dying people to the petitioner qua which it has been submitted on behalf of the petitioner that the same shows that he poses danger to the petitioner.

Learned counsel for the petitioner submits that an application bearing CrI.M.A.11386/2020 was filed on behalf of the petitioner seeking an early hearing and disposal of the present petition CrI.M.C.5952/2019 due to violation of the bail conditions by the respondent no.2 along with the affidavit of the petitioner. Vide para 10 of the said application, the details that had been submitted by the petitioner qua the stated violation of the terms and conditions of order dated 24.10.2019. Para 10 of the said application reads to the effect:

“Following are the messages and the email sent by the respondent no.2 to the petitioner-

S.No.	Date	Time	SMS/Email	Message
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1	11.08.2020	21:20	SMS from mobile number +91-9625049317 to +91-9810152617	Sushant Singh father is saying there is no one to light his pyre . Is there any one to light pig man's father pyre . Imo pig man's father should have committed suicide the moment this gaandu was born . Instead he raised him and married him to another gaandu . How did they have a child ? Did she borrow neighbours sperms ? She is a lesbian and since gayism is legalised imo she should be allowed to marry her love -Ms rituk Gupta . I knew sb loves her
2	11.08.2020	13:40	SMS from mobile number +91-9625049317 to +91-9810152617	Maaderchodon if there is no expectations left in life then why don't u commit suicide like Sushant Singh . Everything you dreamt of has passed you by . Now it's only going to get worse . Each day gets more and more worse . Haraamzadi suarni 2 Lacs avoid Karne ke liye police complaint Kar rahi thi . I suggest make her pay the amount by weeknd . Btw 100 kg cross Kar Jaye body ya less than 50 kg ho Jaye to ceiling fan use Kar Lena
3	11.07.2020	06:36	SMS from mobile number +91-9625049317 to +91-9810152617	👉 will get unbearable pain ☹️

4	11.07.2020	06:36	SMS from mobile number +91-9625049317 to +91-9810152617	Btw 🐷 pigs have it. Maintain distance from 🐷
5	11.07.2020	06:34	SMS from mobile number +91-9625049317 to +91-9810152617	Here is a test , take a look at the tip of your nose , if u see it clearly then u don't hv Corona but if it is hazy then u hv. It takes different times to manifest and can take up to a year before the unbearable feeling comes in, headache , backache , throat infection , loose motion anything and boy u r dead , and it will be unbearingly painful , I am loving IT bcas
6	11.07.2020	06:30	SMS from mobile number +91-9625049317 to +91-9810152617	pain is unbearable in Corona , they don't tell u that on TV, in 35 years they hv yet not found vaccine for HIV and they are claiming they will soon get one for Corona , if u hv recd this SMS then u hv Corona but u don't know yet . Even testing devices are not reliable, it's an uncharted territory. But u already hv Corona . That is why u r getting this text. Only Corona patients are getting texts from me .
7	14.05.2020	21:28	Email	I am aware, pallavi, is your password. I require your total attention for the coming 24 hours, or I may make sure you that you live out

				of guilt for the rest of your life span Hi, you do not know me. But I know just about everything concerning you. Your present fb contact list, mobile phone contacts and all the online activity in your computer from past 146 days. Consisting of, your masturbation video footage, which brings me to the main motive why I 'm writing this specific mail to you. Well the last time you went to see the porn webpages, my malware was activated inside your personal computer which ended up documenting a beautiful video footage of your self pleasure play simply by triggering your web camera. (you got a exceptionally weird preference by the way lmfaao) I have got the whole recording. If you think I 'm playing around, just reply proof and I will be forwarding the particular recording randomly to 8 10 people you're friends with. It could be your friends, co workers, boss, mother and father (I don't know! My system will randomly pick the contact details). Would you be able to gaze into anyone's eyes again after it? I question that... Nonetheless, it does not have to be that route. I'm going to make you a one time, no negotiable offer. Get \$ 2000 in bitcoin and send it on the down below address: 12PRs*uKdbtfjL1zRMADY2KChgbbozLdquR [CASE sensitive so copy and paste it, and remove * from it]
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				(If you don't understand how, look online how to purchase bitcoin. Do not waste my valuable time) If you send out tis particular 'donation' (let's call this that?). Right after that, I will go away for good and under no circumstances get in touch with you again. I will erase everything I've got about you. You may very well carry on living your current normal day to day lifestyle with absolutely no fear. You've got 24 hours to do so. Your time starts as quickly you read this e mail. I have an one of a kind program code that will notify me once you see this email therefore do not try to act smart.
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The petitioner has submitted that the respondent no.2 has been threatening the petitioner, her husband and is abusing the dead father in law of the petitioner and is also trying to carry out extortion and has been using the communication to sexually harass her. It has also been submitted on behalf of the petitioner that the respondent no.2 had used different numbers and emails to send SMS and mails and that the respondent no.2 was utilizing the period of suspended functioning of Court to further harass the petitioner and commit offences.

The status report was called for from the State in relation to the averments made in the application Crl.M.A.11386/2020 seeking an early hearing and the copy thereof was directed to be sent to the respondent no.2 and the counsel representing the respondent no.2 before the learned trial Court vide order dated 24.08.2020 with the matter having been renotified for

the date 01.09.2020 and on 01.09.2020, time was sought on behalf of the respondent no.2 to file the response to the petition seeking cancellation of bail granted to the respondent no.2 and the State was also called upon to submit a status report, which was since submitted by the State for the date 11.09.2020. No response of the respondent no.2 to the petition and to the application was filed but an affidavit of the father of the respondent no.2 was filed. A submission was made therein to the effect that the respondent No.2 is suffering from mental health ailments and that he may be placed at IHBAS for admission and consequential treatment.

Vide order dated 15.09.2020 in as much as through the status report submitted by the State it was indicated that apart from the complaint that had been made by the petitioner herein, there was another FIR No. 361/2020 Police Station Vasant Kunj (North) under Sections 506/509 of the Indian Penal Code, 1860 registered on 06.09.2020 and during the investigation of the same, it had come to notice from the mobile service provider that mobile number 9625049317 is in the name of the father of the respondent no.2 Baleshwar Rai which was being used by the respondent no.2 as per the version of Mr. Baleshwar Rai and despite the bail conditions imposed vide order dated 24.10.2019 that the respondent no.2 would not indulge into any offence of similar nature again for which he was charged in the present case and would not contact the complainant or the family members of the complainant, the respondent no.2 had sent messages on the mobile number and email of the petitioners' husband which has abusive language, threatening in nature, criminally intimidating provoking her husband to commit suicide and spoke of extortion.

The status report thus filed by the State also supports the prayer made

by the petitioner seeking cancellation of bail granted to the respondent no.2. In as much as the father of the respondent no.2 through his affidavit submitted to the effect that the respondent no.2 was in an ill state of mental health and was suffering from mental disorder and insomnia and was under treatment for the same with it having been submitted through the affidavit of the father of the respondent No.2 that the respondent No.2 may have taken the mobile handset lying in the house of the father of the respondent No.2 and may have sent the messages as alleged by the applicant using mobile No. 9625049317 of his wife/mother of the respondent No.2 with it having been submitted that the said messages indicate the mental health of the respondent no.2 and a prayer was made by the father of the respondent No.2 that the respondent No.2 be admitted at the IHBAS for treatment, vide order dated 15.09.2020, it was considered appropriate before proceeding further in the matter in view of the submissions that had been made on behalf of the father of the respondent no.2 qua the mental condition of the respondent no.2 that a status report verifying the visible mental health of the respondent no.2 be placed on record by the State. The status report that has been submitted by the State dated 19.09.2020 under signatures of Inspector Raj Kumar, SHO PS Vasanj Kunj (North) is to the effect that pursuant to the order dated 15.09.2020 of this Court, Inspector Sanjeev Mandal of PS Vasant Kunj North, IO of the case visited the residence of the respondent no.2 at H.No.1029, Sector-14, Gurugram, Haryana on 17.09.2020 and in the presence of the father of the respondent no.2, the respondent no.2 was examined and interaction was made, which interaction was also recorded in the mobile camera by Inspr. Sanjeev Mandal and total five questions were put to the respondent no.2 in writing and answers of which were given in

writing by the respondent no.2. The questions and answers that were put have been attached as Annexure A and it was informed by Inspector Raj Kumar vide status report dated 19.09.2020 that as per examination, the respondent no.2 seems to be in good physical and mental health condition. The questionnaire that has been put by the IO to the respondent no.2 attached with the status report reads to the effect:

“Q. What is your age?

A. 46 years.

Q. What is your mobile number?

A. I do not have any mobile at present.

Q. What are you doing presently?

A. enjoying life.

Q. What you were doing previously?

A. insurance business till Aug, 2018.

Q. What is you source of income today/ presently?

A. No source presently, I am dependent on parents.”

which questionnaire was signed by the respondent no.2.

The said questions and answers that have been put forth through the status report submitted by the State are itself explanatory and speak eloquently qua the present condition of the respondent no.2 with his answer specifically in relation to the question *what are you doing presently* with the response being to the effect that he was *enjoying life*. Taking the said response and all the responses to the questions that have been put forth to the respondent no.2 as well as the status report verifying the factum of the SMS that had been sent as alleged by the petitioner through CrI.M.A.11386/2020, in relation to which an FIR was also indicated to have been registered i.e. FIR No.361/2020, PS Vasant Kunj dated 06.09.2020, without any observations on the merits or demerits of the trial that may take

place in as much as there has been apparent violation of the terms and conditions of the order dated 24.10.2019 of the learned MM (Mahila Court) -01 in relation to FIR No.164/2019, PS Vasanj Kunj North vide which the applicant, the respondent no.2 was allowed to be released on bail with it having been specifically directed that he would not directly or indirectly make any inducement, threat or any promise to complainant/any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence and would not contact the complainant or the family members of the complainant in any manner whatsoever, it is essential and imperative that the bail granted to the respondent no.2 is cancelled in terms of Section 439(2) of the Cr.PC, 1973 to maintain law and order and adherence to judicial directions.

The bail granted to the respondent no.2 vide order dated 24.10.2019 of the learned MM (Mahila Court-01), New Delhi in relation to the FIR No.164/2019, PS Vasant Kunj (North) is cancelled and the SHO, PS Vasanj Kunj North is directed to ensure that the respondent no.2 is taken into custody expeditiously in relation to the same.

The petition is disposed of.

ANU MALHOTRA, J

SEPTEMBER 21, 2020

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