

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 815 of 2020

- Ursheen Kaur, W/o Manjot Singh Arora, Aged About 26 Years, R/o HIG- 172, Padmnabhpur, Durg, District-Durg, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh Through Station House Officer, Telivbandha Raipur, District- Raipur, Chhattisgarh.
2. Manjot Singh Arora, S/o Shri Harsimran Singh Arora, Aged About 32 Years, R/o Gurunanak Nagar, Shyam Nagar, Telibandha Raipur, District- Raipur, Chhattisgarh.

---- Respondents

For Applicant	:	Mr. Arvind Dubey, Advocate.
For Respondent No.1/State:	:	Mr. B.P. Banjare, Dy. Govt. Advocate.
For Respondent No.2	:	Mr. Rahim Ubwani, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

09/04/2021

1. This petition has been brought under Section 439 (2) of CrPC praying for cancellation of anticipatory bail granted to the respondent No.2 vide order dated 21.6.2019 passed in MCRC(A) No.835/2019.
2. It is submitted by the learned counsel for petitioner that on her complaint, Crime No.230/2019 has been registered against respondent No.2 and his family members for offences under Section 498A of IPC and Section 4 of Dowry Prohibition Act. The respondent No.2 was granted bail by order dated 21.6.2019 in which there was a specific condition that the applicant shall not directly or indirectly make any inducement, threat or promise to 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; and that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial.

3. Respondent No.2 has find ways to harass the petitioner so that she would withdraw her complaint. Some unknown person has called the petitioner threatening her and asking her to withdraw the case. Further, the respondent No.2 has for the purpose of maligning the image and reputation of the petitioner uploaded some nude photographs of the petitioner on social media 'Facebook' through a fake ID in the name of 'Sam Manikpuri'. The petitioner has lodged FIR in Police-Station Basant Vihar, District-Dehradun, on which offence under Section 67 of the Information Technology Act has been registered against said Sam Manikpuri.
4. The petitioner is convinced that these photographs were either published by the respondent No.2 by making use of a fake ID or that he has provided these photographs to said Sam Manikpuri which were exclusively in possession of the respondent No.2. Therefore, this is an act to defame, depress, frustrate and harass the petitioner so that she can come to terms with the respondent No.2. It is a clear-cut violation of the conditions imposed by this Court in the bail order, hence, it is prayed that this petition be allowed and the anticipatory bail granted to the respondent No.2 be canceled.
5. Learned State counsel makes formal objection to the submissions made by the petitioner's counsel.
6. Regarding publication of obscene photographs of the petitioner in the Facebook, it is submitted by learned counsel for respondent No.2 that there is no allegation present against respondent No.2. The FIR that has been lodged by the petitioner in police-station-Basant Vihar, Disitric-Dehradun, is not against this applicant.
7. It is further submitted that, the FIR lodged is under investigation and so far there is no clue that respondent No.2 has any involvement with the said publication. The allegation that the petitioner is making against respondent No.2 is subject to inquiry. Respondent No.2 denies about having in his possession any such photograph of the petitioner. The respondent No.2 has not violated any of the conditions imposed upon him while granting anticipatory bail and he has never misused the liberty granted to him. Hence, the petition is baseless and unsustainable which may be dismissed.

8. In reply, it is submitted by the learned counsel for petitioner that it was only respondent No.2, who had clicked such photographs at the time of intimate moments when everything was going on well, therefore, the publication of such photographs in social media Facebook has direct connection with respondent No.2. Hence, the respondent No.2 is not entitled in any way to enjoy benefits of order of bail.
9. Considered on the submissions.
10. In the case of **Kanwar Singh vs. State of Rajasthan and another**, reported in **AIR 2013 SC 296**, in which it was held that while considering cancellation of bail under Section 439 (2) of the Code, the primary considerations which weight 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. In the present case, this fact is undisputed that the obscene photographs of the petitioner have been uploaded in the Facebook using ID of one Sam Manikpuri. Separate FIR lodged in that respect is under investigation. The investigation in progress may reveal the persons who are responsible for this publication in future and in that case the persons concerned shall certainly be prosecuted. It appears that publication of the obscene photographs in social media Facebook does not appear to convey any threat, if the respondent No.2 had intended he would have directly conveyed any such threat. There is no such statement in the FIR lodged in Dehradun that respondent No.2 has threatened the petitioner before or after the publication of those photographs. Hence, the allegation of the petitioner is subject matter of inquiry and that inquiry and investigation shall be made in the FIR lodged by the petitioner in District-Dehradun. For the present, I am of this view that there is no such material to show that respondent No.2 has breached any of the conditions which were imposed upon him while granting anticipatory bail. Therefore, I do not find any substance in this petition which is liable to be and is hereby dismissed.

Sd/-
(**Rajendra Chandra Singh Samant**)
Judge