

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No.12 of 2021**Order Reserved on : 4.2.2021Order Passed on : 15.2.2021

1. Ajit Kumar, Son of Uttara, aged about 28 years, resident of In front of Progressive Convent School Kumharpara, Rajiv Gandhi Chowk, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh

---- Petitioner**versus**

1. State of Chhattisgarh through Police Station Janjgir, District Janjgir-Champa, Chhattisgarh
2. Janak Prasad Pathak, Son of Late Shri G.P. Pathak, Aged about 53 years, Resident of Dharampur-1, Near Nirmal Sadan, Police Station City Kotwali, Jagdalpur, District Bastar, Chhattisgarh

---- Respondents

For Petitioner	:	Ms. Sareena Khan, Advocate
For Respondent No.1	:	Shri Sunil Otwani, Additional Advocate General
For Respondent No.2	:	None

Hon'ble Shri Justice Arvind Singh Chandel**C.A.V. ORDER**

1. Heard on admission.
2. The instant petition has been preferred under Section 439(2) of the Code of Criminal Procedure by Petitioner Ajit Kumar for cancellation of the bail granted to Respondent No.2 by this Court vide order dated 14.8.2020 passed in M.Cr.C.(A) No.774 of 2020 in connection with Crime No.256 of 2020 registered at Police Station Janjgir, District Janjgir-Champa for offence punishable under Sections 376, 506, 509B of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (henceforth 'the Act').

3. Facts of the case, in nutshell, are that on 3.6.2020, a First Information Report was lodged by the prosecutrix, a married woman aged about 33 years against Respondent No.2, the then Collector of District Janjgir-Champa. It was alleged by the prosecutrix that on 15.5.2020 Respondent No.2 made a phone call to her and called her to his office at 4:00 p.m. At that time, she reached his office, but she did not find him there. Therefore, she made him a phone call and told him that she had come to his office. He asked her to stay there. After sometime, he reached his office and called her in his chamber, where he forcibly committed sexual intercourse with her. Thereafter, he threatened and told her not to disclose the incident to anyone. It was further alleged by the prosecutrix that even after the incident he used to send her vulgar messages and obscene videos and also blackmailed her that he will publicise images and videos of her private parts. On the basis of her report, Police Station Janjgir, District Janjgir-Champa registered Crime No.256 of 2020 for the alleged offences punishable under Sections 376, 506, 509B of the Indian Penal Code and Section 3(2)(v) of the Act. An application for grant of anticipatory bail was moved by Respondent No.2, which has been allowed by this Court vide order dated 14.8.2020 passed in M.Cr.C. (A) No.774 of 2020. In paragraph 8 of the bail order, it was observed by this Court that since the offence under Section 376 of the Indian Penal Code appears to be doubtful, the offence under Section 3(2)(v) of the Act is also not attracted. After passing of the bail order, the present petition has been preferred under Section 439(2) of the Code of Criminal Procedure by Petitioner Ajit Kumar. What relation the Petitioner has with the prosecutrix is not mentioned in the instant

petition nor has the Petitioner stated that in what capacity he has preferred this petition.

4. While dealing with the similar issue in **Myakala Dharmarajam v. State of Telangana, (2020) 2 SCC 743**, it has been observed by the Supreme Court as follows:

“8. In *Raghubir Singh v. State of Bihar*, (1986) 4 SCC 481, this Court held that bail can be cancelled where (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation, (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation, (v) there is likelihood of his fleeing to another country, (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency, (vii) attempts to place himself beyond the reach of his surety, etc. The above grounds are illustrative and not exhaustive. It must also be remembered that rejection of bail stands on one footing but cancellation of bail is a harsh order because it interferes with the liberty of the individual and hence it must not be lightly resorted to.

9. It is trite law that cancellation of bail can be done in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant material 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 [*Kanwar Singh Meena v. State of Rajasthan*, (2012) 12 SCC 180].”

5. In the light of above observation of the Supreme Court, I have gone through the entire contents of the instant petition. I have also heard Learned Counsel appearing for the parties. I do not find any cogent ground on the basis of which the bail granted to Respondent No.2 could be rejected. The bail order does not suffer from any infirmity.

Therefore, the instant petition (Cr.M.P.) is dismissed at the admission stage itself.

6. According to the contents of the instant Cr.M.P., the Petitioner has also made an application addressed to the Director General of Police and the Advocate General of Chhattisgarh vide Annexure A-2 dated 26.10.2020. I have gone through the contents of the said application (Annexure A-2). In paragraphs 1, 10 and 11 of Annexure A-2, it is mentioned by the Petitioner that by granting anticipatory bail to Respondent No.2, this Court has committed crime and the order of this Court is also a crime towards the society. The language used by the Petitioner in Annexure A-2 is derogatory and contemptuous. It appears that Petitioner Ajit Kumar, Son of Uttara, Aged about 28 years, Resident of In front of Progressive Convent School, Kumharpara, Rajiv Gandhi Chowk, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh is trying to cause obstruction in the course of justice. Therefore, Registry is directed to initiate a separate proceeding in the nature of contempt against Petitioner Ajit Kumar and list the same before this Court for consideration on 17th February, 2021.
7. The instant disposed of Cr.M.P. be linked with the contempt proceeding to be initiated separately.

Sd/-
(Arvind Singh Chandel)
JUDGE