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

% *Order pronounced on 13.07.2022*

+ CRL.M.C. 336/2022 & CrI.M.A. Nos.1446/2022, 8109/2022

ANGEL GUPTA

..... Petitioner

Through: Mr. Joginder Tuli, Mr. Shrikant
Sharma & Mr. Ishu Sharma, Advs.

versus

STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Ms. Meenakshi Chauhan, APP for
State.

CORAM:

HON'BLE MR. JUSTICE TALWANT SINGH

Talwant Singh, J.:

1. The present petition has been filed praying for stay and setting aside the order dated 18.01.2022 passed by the Ld. Additional Sessions Judge (ASJ) , Rohini Court, Delhi cancelling the interim bail of the petitioner granted in case FIR no. 430/2018 u/s 302/120B/34 IPC and 25/27 Arms Act registered at Police Station Bawana.

1.1 It has been submitted that the petitioner was granted interim bail under the guidelines of High Power Committee (HPC) due to prevailing Covid conditions vide order dated 11.06.2021 passed by the Court of learned ASJ, Rohini Courts, New Delhi. The said order was challenged by the complainant by filing CrI.M.C. 1755/2021, which was taken up by the High Court on 04.10.2021 and the complainant was asked to approach the concerned court. Accordingly, cancellation application was moved by complaint before learned ASJ, Rohini Courts, Delhi.

1.2 The learned ASJ, Rohini Courts, cancelled the interim bail of the



petitioner on 18.01.2022 after about 7 months on the ground that the petitioner failed to submit her mobile number to the IO/SHO as the same was one of the conditions of the interim bail granted to the petitioner. The learned ASJ failed to appreciate that other conditions of the interim bail were followed and the mobile number used by the petitioner was provided to the IO on 02.12.2021. The mobile number was also provided to the Jail Superintendent on the date of the release of the present petitioner, who had been regularly appearing before the Trial Court after grant of interim bail and an exemption was sought on 02.12.2021 on medical grounds and she was directed by the Trial Court to submit medical certificate by the next date on 10.02.2022.

1.3 The petitioner approached this court by filing W.P.(Crl.) 128/2022 assailing the impugned order dated 18.01.2022 but the said petition was dismissed as withdrawn with liberty to initiate appropriate proceedings vide order dated 20.01.2022. Hence the present petition has been filed praying for setting aside of the order dated 18.01.2022.

2. Notice was issued on 27.01.2022 directing the State to file Status Report and specifically to ascertain and indicate as to whether the petitioner left the jurisdiction of the NCT Delhi without seeking prior permission of the Court.

2.1 The application for pre-ponement being Crl.M.A. 3323/2022 was dismissed by the learned predecessor of this Court on 22.02.2022. The petitioner had approached the Hon'ble Supreme Court against the initial order passed by this court on 27.01.2022, as the High Court had refused to grant stay of the order dated 18.01.2022. The Hon'be Supreme Court refused to interfere with the interlocutory order passed by this court but



granted two weeks' time to petitioner to surrender. On 14.03.2022, it was submitted by learned counsel appearing for the petitioner that the petitioner had already surrendered before the Jail Superintendent.

3. Status report has been filed. Arguments have been heard and my considered view is as under:-

3.1 In this case FIR No. 430/2018 under Section 302/120B/34 IPC and Section 25/27 Arms Act was registered at PS Bawana on 29.10.2018; the petitioner was arrested on 01.11.2018; the charge-sheet under Section 302/120B/34 IPC and Sections 25/27 Arms Act was filed on 27.01.2019; the petitioner was granted interim bail by learned ASJ, Rohini Courts on 11.06.2021; the complainant Rajesh Kumar Malik challenged the grant of interim bail to the present petitioner before this Court by filing CrI.M.C. 1755/2021 which was disposed of on 04.10.2021; the petitioner appeared on two dates before the Trial Court through video conferencing, however, she did not appear before the Trial Court on 02.12.2021 and the reason given was some gynecological problem and due to this exemption was allowed subject to depositing of medical records on the next date of hearing. However, the application filed by the complainant for cancellation of bail was taken up for hearing on 18.01.2022 and interim bail was cancelled. The operative portion of the said order is reproduced hereunder:-

"8. Heard and considered the contentions of the parties as well as material placed on record.

9. The averments made behalf of the applicant/complainant has to be considered in the light of the interim bail order dated 11.06.2021 as well the conditions of the interim bail . Therefore, the relevant paras of the order dated 11.06.2021 are reproduced for the sake of convenience hereunder:

"Ld. Counsel for the complainant vehemently opposed the



application stating that there are serious allegations against the applicant and she is the main conspirator in the present case. The Hon'ble HC has already heard the said issue for release of the applicant on interim bail in view of the Hon'ble HPC guidelines. The reliance is placed on order dated 25.05.2021. It is further submitted that while the Hon'ble High Court was inclined to dismiss the said application on merits, the Ld. Counsel for the accused preferred to withdraw it. Hence, this court has no jurisdiction to entertain the present application.

The said averment is rebutted by Ld. Counsel for applicant/accused and it is submitted that no such proceedings took place and the order dated 25.05.2021 of the Hon'ble High Court reflect that he simplicitor withdrew the same as the trial is pending before the court which is competent to entertain the present application. To support the said averment, reliance is placed on the judgment of Hon'ble Supreme Court in case titled as Sharad Vs. State of Maharashtra (Criminal Appeal No. 1221/2019) dated 08.08.2019. Further, Ld. Counsel for applicant submits that the applicant/accused is entitled to interim bail in terms of guidelines of Hon'ble HPC dated 04.05.2021 and 11.05.2021. It is further submitted that there is no involvement of the applicant /accused and the case is squarely covered by the guidelines."

10 . It is apparent from the said order that a categorical statement (underlined portion) was made on behalf of the accused non-applicant Angel Gupta stating that the Hon'ble High Court has given her liberty to withdraw the application and move the same before the Trial Court which is competent to entertain the said application. But, now the said averment has been claimed on behalf of accused/non-applicant Angel Gupta to be incorrect before the Hon 'ble Delhi High Court as is reflected from the order dated 04.10.2021. If indeed, the said averment was incorrectly recorded, then why no steps have been taken for the last more than six months for withdrawal of the said submission. Even no oral submission has been ever made in this regard despite lapse of more than six months and the case having been taken more than one occasion.



Pertinently, accused/non-applicant Angel Gupta is being represented by the same counsel in the trial as well as in the bail applications, but despite that the said incorrect averment has not been withdrawn or sought to be corrected. In the aforesaid backdrop, it has to be observed that this court was misled while moving of the application for interim application in view of the guidelines of Hon'ble HPC on 11.06.2021 and order was passed in view of fraud played upon the court.

11. The main ground on which the present application for cancellation of bail has been moved is the violation of the interim bail conditions by accused/non-applicant Angel Gupta. The applicant/complainant has primarily placed reliance upon the condition (i) and (ii) imposed vide order dated 11.06.2021 on the accused/non-applicant Angel Gupta by claiming that the said conditions have been blatantly violated. Per contra the reply by the non-applicant/accused on the said aspect is silent and there is only bald denial.

In this regard, the report which has been filed by the SHO/IO is required to be considered which clinches the issue in hand. A specific condition was put on accused/non-applicant Angel Gupta that on being released on interim bail on personal bond, she was under the obligation to provide all her functioning mobile numbers to IO as well as share her whereabouts. The report dated 14.01.2022 filed by IO Inspector Sudhir Kumar P.S Bawana corroborates the said fact of there being blatant violation of the conditions interim dated 11.06.2021. As per the said report, the accused/nonapplicant Angel Gupta provided her mobile number 78400 68459 first time only on 3.12.2021 that too in the compliance of the subsequent court order in the regular hearing dated 2.12.2021. The said mobile number is in the name of one Sanjeev Kumar and active since 20.06.2021. Thus, it is apparent that the said mobile number is being used by the accused/non-applicant Angel Gupta since the release on interim bail, but she failed to share her mobile number as well as her whereabouts with the IO or SHO concerned as was directed in the interim bail order 11.06.2021.

12. Apart from the said fact, the order dated 2.12.2021 too reflects that the accused failed to appear on that day before the



court and exemption application was filed by claiming that she was suffering from some gynecological problem. The said application was vehemently opposed on behalf of the State as well as complainant being not supported with any medical document. Accordingly, the court directed the IO to file the CAF as well as Cell ID of the mobile number of accused/non-applicant Angel Gupta. On the said issue, the report dated 14.1.2022 reflects that the abovesaid mobile number being used by the accused though was in Delhi but was found roaming around in the area of R.K. Puram, Vasant Kunj and Malviya Nagar. Thus it is apparent that accused/non-applicant Angel Gupta was not having any serious medical issue on that day and failed to appear before the Court by taking a false plea of some gynecological problem.

In view of the above facts and circumstances of the case, **I am of the considered view that the accused/non-applicant Angel Gupta has violated the interim bail conditions without any justifiable reason and has tried to evade the court proceedings. Further the court was misled by the accused /non applicant while arguing the interim bail. The judgment Abdul basit (Supra) relied upon by the non-applicant/accused rather applies in the present case as she has tried to hide herself and misuse the bail after being released on interim bail by this court . The application under Section 439(2) moved by the complainant/applicant is allowed and the interim bail granted to accused/non-applicant Angel Gupta vide order dated 11.06.2021 hereby stands cancelled.**

The accused/non-applicant is also directed to surrender before the Jail Authorities within two days from today.

Reader/ Ahlmad is directed to send copy of the order to the parties on their emails/Whatsapp.

A copy of this order be also sent to the Jail Superintendent concerned and SHO concerned for compliance by Reader/Ahlmad at once”.

3.2 It is to be observed that the interim bail granted on 11.06.2021 was cancelled on the following grounds by the learned Trial Court:-



(i) It was categorically stated on behalf of the present petitioner before the learned Trial Court that the Hon'ble High Court had given her liberty to withdraw the application and move the Trial Court but no such liberty was ever given. The order of the Hon'ble High Court dated 04.10.2021 notes that the petitioner Angel Gupta retracted from the stand taken before the Trial Court. However, the learned Trial Judge has observed that in case the said submission was noted wrongly, then why no steps were taken for more than 6 months for withdrawal of the said submission. It was also noticed that the same counsel was representing Angel Gupta in the Trial Court and in the bail application, so the learned Judge observed that he was misled by the present petitioner, who had submitted that the Hon'ble High Court had given her liberty to withdraw the application and move the same before the Trial Court.

(ii) The next ground on which the cancellation was allowed is the violation of the conditions imposed while granting interim bail vide order dated 11.06.2021. The report was called from the SHO/IO. The present petitioner was under obligation to provide all her functional mobile numbers to the IO but the report dated 14.01.2022 showed that for the first time the petitioner Angel Gupta provided her mobile number 7840068459 only on 03.12.2021 and that too in compliance of the subsequent court order dated 02.12.2021. The said mobile number is in the name of one Sanjeev Kumar and active since 20.06.2021. It is also observed by the Court that said mobile number is being used by the petitioner since her release on interim bail but she did not share the said number as well as her whereabouts with the IO/SHO.



(iii) The third reason recorded for cancellation is that on 02.12.2021, adjournment was sought on the ground that the petitioner was suffering from some gynecological problem but there was no supporting document, so the Court directed the IO to file CAF as well as Cell ID of the present petitioner Angel Gupta. The report dated 14.01.2022 shows that although the petitioner was in Delhi but was found roaming around in R.K.Puram, Vasant Kunj and Malviya Nagar and was not having any serious medical issue on the day when the matter was listed on 02.12.2021 but she failed to appear before Court and a false plea of some gynecological problem was raised.

(iv) So, under these circumstances, the application for cancellation of bail was allowed by learned ASJ which is under challenge before this Court.

3.3 Status report called by this court shows another interesting fact and relevant extract of the report is reproduced hereunder:-

“10. In compliance of the direction of this hon'ble court the location of the mobile No. of Angel Gupta (Present applicant) i.e. 7840068459, has been obtained from the concern Telecom service provider (Vodafone). As per subscriber details/KAF, mobile No. 7840068459 is registered on the name of Sanjeev Kumar s/o Amar Singh ,r/o H. No. 300, Sector-5, R.K.Puram, Delhi. Sanjeev Kumar had already been enquired in this regard, who told that he is father of Angel Gupta and he got issued this No. for Angel Gupta when she got interim bail in June 2021 and since then mob. No. 7840068459 is being used by Angel Gupta. On perusal of the CDR of mobile No. 7840068459, it learnt that Angel Gupta (Present applicant) has frequently visited outside Delhi at various places i.e. Ghaziabad (UP), Noida(UP), Faridabad (HR), Faridabad(HR), Meerut(UP), Muzaffarnagar(UP) and Pauri Garhwal (Uttarakhand)etc. As per the CDR of Mobile No. 7840068459, few specific location,



which is much far away from NCT of Delhi is as Under :-

<i>Date</i>	<i>Location of Mobile No. 7840068459</i>	<i>Distance in KM (approx..) from Delhi</i>
<i>02.11.2021</i>	<i>Distt. Pauri Garhwal (Uttarakhand)</i>	<i>More than 300 Km</i>
<i>30.10.2021 21.11.2021</i>	<i>Distt. Muzaffarnagar (UP)</i>	<i>More than 120 Km</i>
<i>27.06.2021 25.07.2021 29.08.2021 26.09.2021 30.10.2021 02.11.2021 21.11.2021 26.12.2021</i>	<i>Distt. Meerut (UP)</i>	<i>More than 70 Km</i>

It is pertinent to mention here that neither the present applicant has taken any permission from the hon'ble court nor informed to Police Station/IO regarding to visit outside of Delhi”.

3.4 Status report shows that the mobile number provided by Angel Gupta on 03.12.2021 was obtained from Vodafone, which was registered in the name of Sanjeev Kumar son of Amar Singh, who had told the police officials that he had got issued this mobile number for Angel Gupta when she was granted interim bail in June, 2021 and since then the said mobile number is being used by her, as quoted above. The CDR of this mobile phone shows that the petitioner had been roaming around in different parts of North India in other states without any express permission from the Court and in violation of the conditions mentioned in the interim bail order.

3.5 Even the response filed by the petitioner to the Status report does not



clarify the circumstances under which the petitioner was found to be roaming around in other parts of North India without informing the IO It is relevant to quote the conditions imposed upon the petitioner while granting interim bail under HPC guidelines by the court of learned ASJ. The said conditions are reproduced hereunder:-

“In these circumstances, the accused / applicant is given interim bail for a period of 90 days subject to furnishing personal bond for a sum of Rs. 50,000/-to the satisfaction of Jail Supt. on the following conditions:

- i) That the appiicani/accuscd shall not leave Delhi without prior intimation to the IO/Court either by written intimation or through SMS to IO on mobile phone in advance;*
- ii) That the applicant/accused will supply all numbers of his functioning phones/mobile phones to the ID and Jail Supt. as well as about his whereabouts.*
- iii) That the applicant/accused shall not tamper with the evidence;*
- iv) That the applicant/accused shall not try to contact in any manner or threat the prosecution witnesses;*
- v) That in case of change of her residential address, she shall intimate the court about the same;*

The application accordingly, stands disposed of”.

4. In my view, there is a clear violation of condition no.1 of the interim bail order dated 11.06.2021, which has prohibited the present petitioner from leaving the jurisdiction of Delhi without prior intimation to IO/Court. Moreover, there is also violation of condition no.2 regarding providing all her functional mobile numbers by the petitioner to the IO as well as to the Jail Superintendent along with her whereabouts.

5. Under these circumstances, the violation of these conditions is a sufficient ground for cancellation of interim bail granted to the present



petitioner apart from other two grounds mentioned in the impugned order i.e.

(i) the court was misled into believing that application for interim bail was moved as per the expressed liberty granted by this court

(ii) on 02.12.2021 when the petitioner had sought exemption from appearance in Trial Court on medical grounds while she was roaming around in Delhi.

6. In my view, there is no illegality or infirmity in the impugned order dated 18.01.2022 passed by the learned ASJ by which the interim bail granted on 11.06.2021 was cancelled.

7. The petition is without any merit and the same is hereby dismissed. Pending applications are also disposed of.

TALWANT SINGH, J

JULY 13, 2022/nk

[Click here to check corrigendum, if any](#)