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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: September 14, 2022***+ **CRL.M.C. 2533/2019**

SMT. SUMAN

..... Petitioner

Through: Mr. Sudhir Kumar Ojha, Mr. Ajay Kumar and Mr. Mukesh Mishra, Advocates.

versus

STATE & ANR.

..... Respondents

Through: Mr. Hitesh Vali, APP for State with SI Sachin, P.S. Nand Nagri.
Mr. S.S. Tomar and Ms. Parul Tomar, Advocates for R-2.**CORAM:****HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN****JUDGMENT (oral)**

1. The present petition is filed under Section 439(2) Cr.P.C. for cancellation of bail granted to the respondent no. 2 in FIR bearing No.151/2019 registered under sections 354C/376/328/365/34 IPC at P.S. Nand Nagri, North-East.

2. The perusal of FIR bearing No. 151/2019 reflects that it was registered on the basis of complaint made by the petitioner on the allegation as detailed in the present FIR. During the investigation, the respondent no. 2 was arrested and sent to judicial custody on 02.04.2019. The respondent no.2 was granted bail vide order dated 29.04.2019 passed in bail application bearing no. 1057 by the Court of Sh. Jagdish Kumar ASJ-04 (Shahdara), Karkardooma Courts. The relevant portion of the bail order is reproduced as under:-

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I have heard the Ld. Counsel for applicant/accused as well as Ld. Addl. PP for the State and gone through the record carefully. The applicant/accused is in J/C since the date of his arrest. Nothing has to be recovered from the applicant/accused. A query has been put to the IO whether accused has disclosed in his disclosure statement regarding saving of any porn photographs or video of the prosecutrix in his phone, which has been seized by the IO. The IO submitted that she has sent mobile phone to FSL but she has not checked the mobile phone whether videos and photographs of the prosecutrix are there in the mobile phone. The facts as stated in the FIR also perused. Considering the contents of the FIR as well as other material has disclosed above, the appellant/accused is admitted on bail on furnishing a BB in sum of Rs.25,000/- with one surety of like amount to the satisfaction of concerned Ld. MM/link/Duty/CMM, The applicant/accused shall not influenced the witnesses in any manner or tempered with the evidence.

3. The counsel for the petitioner argued that the concerned Court has granted the bail vide impugned order dated 29.04.2019 to the respondent no. 2 without considering the relevant factual position and gravity of offences and the manner in which the offences were committed and as such, the bail of the respondent no. 2 be cancelled.
4. There is no complaint regarding the violation of bail condition imposed at the time of grant of bail vide order dated 29.04.2019.
5. The Additional Public Prosecutor for respondent no. 1/State assisted by IO SI Sachin, P.S. Nand Nagri stated that the exhibits collected during the investigation were sent to the FSL which are pending for analysis for the



last one and a half years and due to this reason, charges could not be framed against the respondent no. 2.

6. At this stage, no ground is made out for cancellation of bail. Hence, the petition is dismissed. However, the Director or Senior Administrative Officer, FSL, Rohini is directed to expedite the analysis of the exhibits collected during the investigation in FIR bearing No. 151/2019 registered at P.S. Nand Nagri as early as possible, preferably, within three months.

7. The trial Court is also directed to expedite the trial as early as possible without any delay preferably, within fifteen months from receipt of FSL report.

8. The copy of this order be given to the concerned IO so that he can take up the matter with the concerned Officer of FSL, Rohini.

SEPTEMBER 14, 2022
MR/SD

SUDHIR KUMAR JAIN, J

