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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION (MAIN) NO. 7 OF 2023

MANJU AJAY LULLA

... APPLICANT

VS

STATE (AS REPRESENTED BY
THE OFFICER INCHARGE
CALANGUTE POLICE STATION)
AND 2 OTHERS

... RESPONDENTS

Ms. Dolorosa Tulkar with Mr. Salil Saudagar, Advocates for
the Applicant.

Mr. S.G. Bhobe, Public Prosecutor for Respondent Nos. 1
and 2.

Mr. Athnain Naik, Advocate for Respondent No. 3.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 2nd JULY 2024

ORAL ORDER:

1. Heard Ms. Tulkar, the learned Counsel for the Applicant,
Mr. Bhobe, the learned Public Prosecutor for the State and Mr.
Athnain Naik, learned Counsel for Respondent No. 3.

2. This Application is filed before this Court seeking
cancellation of bail, which was granted to Respondent No. 3 by the
learned Sessions Court in anticipation of arrest.

3. The Applicant approached the learned Sessions Court by filing an Application for cancellation of bail on 16.04.2021. By the impugned order dated 06.12.2022, the learned Sessions Court rejected the Application filed by the Applicant, which is challenged in the present proceedings.

4. Ms. Tulkar appearing for the Applicant would submit that though bail was granted to Respondent No. 3, he violated the conditions imposed on him while on bail. It is her main contention that Respondent No. 3 was directed not to interfere with the prosecution witnesses including the Applicant, who is the Complainant. However, it is alleged that Respondent No. 3 started making phone calls to the Applicant and that too during midnight, which amounts to violation of the conditions imposed on Respondent No. 3.

5. Condition No. (b) imposed upon Respondent No. 3 in the order dated 08.08.2017 reads thus:

“(b) That the applicant will co-operate in the investigation and will not directly or indirectly threaten or influence the victim or the witnesses and will not tamper with the evidence.”

6. The Application for cancellation of bail is filed basically on the ground that the Applicant started receiving video calls from Respondent No. 3 and his friends only with the intention to pressurise her in connection with the matter pending before the Trial Court.

7. The Application filed before the Trial Court, though mentions that copies of the screenshots showing the telephonic calls are enclosed, the learned Trial Court in its order dated 06.12.2022 observed that such copies were not placed on record.

8. Ms. Tulkar now submits that according to her instructions, the copies of the screenshots were placed with the Application and now, the same are not found in the record of the Trial Court. However, she maintains her statement on instructions that such copies were placed on record. She also submits that the copies of the screenshots alongwith the copy of the Application for cancellation of bail were furnished to the learned Public Prosecutor appearing before the Trial Court.

9. Be that as it may, the documents placed before this Court would clearly go to show that the phone number referred to in the call details is that of Respondent No. 3. There is no denial of such

aspect. The call details also show that there were some missed calls made by Respondent No. 3 to the Applicant and that too during odd hours. It is again a fact that the Applicant did not respond to such calls.

10. Mr. Naik now submits that after the grant of bail, Respondent No. 3 received three calls from the Applicant itself and in response to it, Respondent No. 3 might have tried to contact the Applicant.

11. The question before this Court is whether there is any ground for the purpose of cancellation of bail granted to Respondent No. 3.

12. Mr. Bhobe submits that from the year 2021, though the matter is fixed for trial, the Applicant is not stepping into the witness box, however, she is pursuing the present Application.

13. The impugned order passed by the Trial Court cannot be faulted with for the simple reason that no documents were attached or placed for the perusal of the Trial Court in connection with the so-called phone calls. The conditions imposed while granting bail to Respondent No. 3 clearly show that he was

restrained from interfering with the prosecution witnesses including the Victim. Thus, making such phone calls is one of such conditions which is found to be violated. However, it is also a fact that Respondent No. 3 is staying abroad and it is his contention that the Applicant was trying to contact him on three occasions somewhere in 2017-2018 and only thereafter, Respondent No. 3 responded to such phone calls.

14. The aspect of cancellation of bail is discussed in the case of **Dolat Ram & Others Vs. State of Haryana, (1995) 1 SCC 349**. Presently, the contention that Respondent No. 3 is trying to contact the Applicant by making phone calls is though required to be considered, the fact remains that she did not attend to such so-called phone calls. Thus, there was no conversation between the Applicant and Respondent No. 3.

15. As stated by Mr. Naik initially, the Applicant called Respondent No. 3 on three occasions and in response to such calls, he tried to contact the Applicant, cannot be ruled out and more so, considering the earlier relationship between the parties. In such circumstances and the fact that the Applicant is staying abroad, no case is made out for cancellation of bail on this aspect alone.

16. Ms. Tulkar now submits that the Applicant is ready and willing to step into the witness box and depose since the matter is of the year 2018.

17. In such circumstances, no case is made out for interfering with the Application for cancellation of bail. Accordingly, the Application stands rejected.

BHARAT P. DESHPANDE, J.