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

+ **CRL.M.C. 1877/2023 & CRL. MA 7169/2023**

RAJSHREE VERMA

.....Petitioner

Through: Mr. Keshav Datta and Mr. Rupal
Luthra, Advocates.

versus

THE STATE (GNCT OF DELHI) AND ANRRespondents

Through: Mr. Nawal Kishore Jha, APP for State
with WSI Rita Dogma PS Daryaganj,
Delhi.

Mr. Rajnish Singh and Mr. Subhash
Tanwar, Advocates for respondent
no.2

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

23.09.2024

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1. By way of present petition, the petitioner seeks setting aside of the order dated 22.04.2022 as well as the order dated 17.08.2022 passed by learned Trial Court vide which the respondent no.2 was admitted to regular bail in FIR No.361/2021 registered under Section 376 IPC at PS Daryaganj, Delhi.

2. Learned counsel for the petitioner/applicant has assailed the impugned orders on two grounds- *firstly*, that he was not given proper opportunity of being heard and *secondly*, that the reading of the impugned order would show that there was no application of judicial mind. In support of the aforesaid contentions, he submits that there were certain WhatsApp messages exchanged between the parties and reading of the same would show that there were certain indirect threats. He further submits that while it was a regular bail application, the impugned orders record grant of



anticipatory bail. Learned counsel for respondent No.2 on the other hand has defended the impugned order by contending that the bail application was listed on multiple dates and even on the date of the passing of the impugned order, the petitioner/complainant was present along with her counsel. He further states that the impugned order was passed after hearing both the parties.

3. Learned APP for the State upon instructions states that the State has not challenged the impugned order. He, on instructions, submits that during the course of investigation, though the petitioner/complainant did not handover any mobile phone, the mobile phone from the respondent no.2 was seized and has been sent to FSL. Further, it is stated that a fraction of the WhatsApp chats/conversations form part of the charge-sheet and the bail was granted after filing of the charge-sheet.

4. I have heard learned counsel for the parties and perused the material available on record.

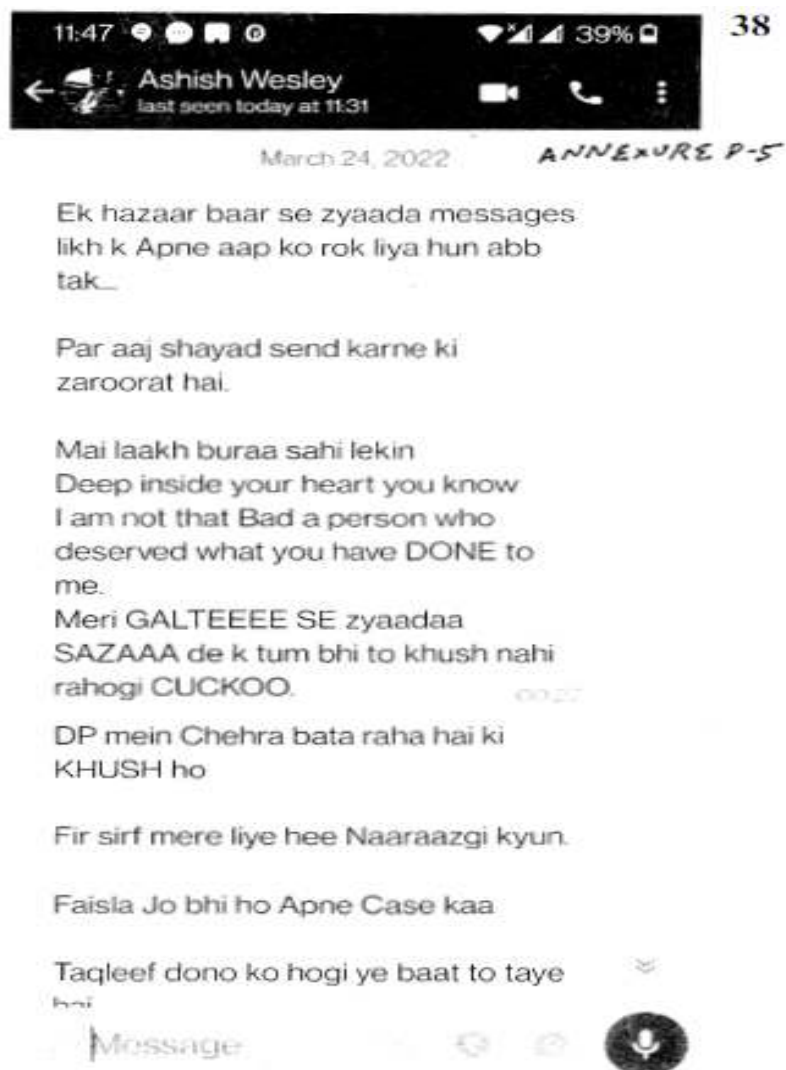
5. The petitioner/complainant has filed the complaint with the allegations that she got to know respondent No.2 through a friend request received on the Facebook and that their mothers were already known to each other being classmates at their school time. The complainant was also aware of the marital status of the respondent No.2. As per the impugned order, both the complainant and respondent No.2 had already obtained divorce from their respective partners. The FIR also contained the allegations of financial transactions between them. On the date of the registration of the FIR, the petitioner/complainant concededly was of 50 years of age. The impugned order records that the relations were maintained on the pretext of marriage, however since respondent No.2 did not keep his promise, the



present FIR came to be lodged.

6. Considering the age of the parties and the nature of allegations, the Trial Court passed the impugned order.

7. During the course of hearing, learned counsel for the petitioner/complainant has referred to certain WhatsApp chats dated 24.03.2022 to contend that the same indicates indirect threat. The said WhatsApp chats are reproduced hereunder:





8. A prima facie reading of the aforesaid chats would not show any threat. Learned APP for the State upon instructions, states that the IO never received any complaint of threat from the petitioner/complainant and even the charge-sheet was filed without any arrest.
9. Moreover, in regard to the Court's power in assessing the correctness



of an order granting bail and the Court's power while considering an application for cancellation of bail, the Supreme Court has observed in Deepak Yadav v. State of Uttar Pradesh reported as (2022) 8 SCC 559 wherein it was observed as under:

"...31. This Court has reiterated in several instances that bail once granted, should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during trial. Having said that, in case of cancellation of bail, very cogent and overwhelming circumstances are necessary for an order directing cancellation of bail (which was already granted).

32. A two-Judge Bench of this Court in Dolat Ram v. State of Haryana, Dolat Ram v. State of Haryana, (1995) laid down the grounds for cancellation of bail which are:

- (i) interference or attempt to interfere with the due course of administration of justice;*
- (ii) evasion or attempt to evade the due course of justice;*
- (iii) abuse of the concession granted to the accused in any manner;*
- (iv) possibility of the accused absconding;*
- (v) likelihood of/actual misuse of bail;*
- (vi) likelihood of the accused tampering with the evidence or threatening witnesses.*

9. Considering the aforesaid facts and circumstances and the bare perusal of the abovesaid judgments which makes it clear that bail can be cancelled only if there are supervening circumstances. The cancellation of bail cannot be done mechanically and there should be cogent and overwhelming reasons for cancellation of bail. In view thereof, I do not find any ground to interfere with the impugned orders. Accordingly,



the petition is stands dismissed along with pending application.

SEPTEMBER 23, 2024*/rd*

MANOJ KUMAR OHRI, J