



\$~11 & 12

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

+ CRL.M.C. 734/2024

MADHESH @ MADHO

.....Petitioner

Through: Mr.Naveen Gaur, Mr.Neeraj Gahlaut
and Mr.Vijay Kumar, Advocates.

versus

STATE NCT OF DELHI AND ANR.

.....Respondents

Through: Ms.Manjeet Arya, APP for State

+ CRL.M.C. 874/2024 & CRL.M.A. 3501/2024 (call TCR)

MADHESH @ MADHO

.....Petitioner

Through: Mr.Naveen Gaur, Mr.Neeraj Gahlaut
and Mr.Vijay Kumar, Advocates

versus

STATE NCT OF DELHI AND ANR.

.....Respondents

Through: Ms.Manjeet Arya, APP for State

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

23.08.2024

%

1. CRL.M.C. 734/2024 under Section 439(2) read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner (complainant in FIR No.0834/2020) for cancellation of bail granted to respondent No.2 (Johnson Dass) vide order dated 04.12.2023 passed by learned ASJ-04 (SW)/Dwarka.

Further CRL.M.C. 874/2024 under Section 439(2) read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred for cancellation of bail granted to respondent No.2 (Sagar @ Katto) vide order dated 29.11.2023 passed by High Court in Bail Application



No.2559/2023.

2. At this stage, learned counsel for petitioner fairly concedes that CRL.M.C. 874/2024 for cancellation of bail of accused Sagar @ Katto has been preferred on the ground of violation of condition No.(vi) imposed vide order dated 29.11.2023 whereby it was directed that the petitioner shall not indulge in any criminal activity after release on bail. However, so far as CRL.M.C. 734/2024 is concerned, no such condition was imposed vide order dated 04.12.2023 by the learned ASJ in respect of accused Johnson Dass.

3. At this stage, learned counsel for petitioner does not press CRL.M.C. 734/2024.

4. Taking the statement of learned counsel for petitioner on record, CRL.M.C. 734/2024 is accordingly disposed of as not pressed. Pending applications, if any, also stand disposed of.

5. So far as CRL.M.C. 874/2024 is concerned, learned counsel for petitioner submits that respondent No.2 (Sagar @ Katto) after release on bail has been involved in two criminal cases, bearing FIR No.0292/2023 under Sections 25/54/59 of Arms Act registered at P.S. Special Cell and FIR No.559/2024 under Sections 115(2)/126(2)/3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS) registered at P.S. Subhash Place. He further contends that in view of violation of condition No.(vi) imposed vide order dated 29.11.2023 in FIR No.0834/2020 under Sections 307/34 IPC and Sections 25/27 of Arms Act, bail of respondent No.2 (Sagar @ Katto) be cancelled.

6. It is also pointed out by learned counsel for petitioner that respondent No.2 (Sagar @ Katto) does not have clean past antecedents and is involved in several cases as reflected in the status report filed on behalf of State. He



further contends that gunshot injuries were fired by respondent No.2 (Sagar @ Katto) on the complainant as well as his mother who is a witness in FIR No.206/2018 under Sections 302/307/34 IPC registered at P.S. Neta Ji Subhash Place.

7. Learned APP for State does not dispute the contentions raised on behalf of petitioner and submits that the bail granted to respondent No.2 (Sagar @ Katto) is liable to be cancelled in view of violation of condition No.(vi) as imposed vide order dated 29.11.2023.

8. None appears on behalf of respondent No.2 (Sagar @ Katto) though the presence of counsel stands recorded in the earlier order dated 22.04.2024. The disposal of the application cannot be prolonged, when violation of condition of bail imposed vide order dated 29.11.2023 is apparent on record.

9. It is pertinent to note that considerations for grant of bail and cancelation of bail are entirely different. Bail granted to an accused can be cancelled under Sub-Section (2) of Section 439 Cr.P.C., if the Court is satisfied that the accused has misused the liberty granted to him or flouted the conditions of bail or if the bail was procured by misrepresentation or fraud. Apparently, respondent No.2 (Sagar @ Katto) was extended benefit of bail vide order dated 29.11.2023 subject to condition No.(vi) that he shall not indulge in any criminal activity after release on bail. The said condition is relevant keeping in perspective the antecedents of the accused and the nature of allegations in the present FIR wherein respondent No.2 had resorted to firing on a witness of FIR No.206/2018 under Sections 302/307/34 IPC registered at P.S. Neta Ji Subhash Place. Even if, involvement of respondent No.2 in FIR No.0292/2023 under Sections



25/54/59 of Arms Act is ignored, involvement of accused in the second case (FIR No.559/2024 under Sections 115(2)/126(2)/3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS) is on the face of record in violation of condition of bail order dated 29.11.2023.

10. The grant of bail is a privilege and society expects responsibility and accountability from the accused by way obeying the law than continue to behave in a disorderly manner by rampantly indulging in criminal behaviour. The liberty by way of bail in the facts and circumstances has been misused by respondent No.2 by repeatedly getting involved in criminal offences and specifically in violation of condition No.(vi) imposed vide order dated 29.11.2023.

11. In the facts and circumstances, bail granted to Sagar @ Katto vide order dated 29.11.2023 is hereby cancelled with direction to respondent No.2 (Sagar @Katto) to surrender before learned trial court on 28.08.2024.

CRL.M.C. 874/2024 is accordingly disposed of. Pending applications, if any, also stand disposed of.

A copy of this order be forwarded to learned trial court for information and compliance as well as respondent No.2 (Sagar @ Katto) through IO/SHO, P.S. concerned.

ANOOP KUMAR MENDIRATTA, J.

AUGUST 23, 2024/v