



\$~18

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 3037/2024, CRL.M.A. 38206/2024, CrI. M.A. 38207/2024

SURAJ PRAKASH

.....Petitioner

Through: Mr. Pallav Shishodia, Senior Advocate with Dr. Lokendra Malik and Mr. Danish Zubair Khan, Advocates.

versus

THE STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Ms. Manjeet Arya, APP for State with W/PSI Garima, P.S. Ranjit Nagar.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

18.12.2024

%

1. By way of present petition, the petitioner seeks setting aside of the order dated 22.03.2024 vide which the petitioner's application seeking cancellation of order dated 06.11.2023 whereby he was declared P.O. in the proceedings held in the context of FIR No. 155/2023 registered under Sections 376/323 IPC at P.S. Ranjit Nagar, Delhi, was dismissed.

2. Ld. Senior Counsel for the petitioner submits that after passing of the impugned order dated 06.11.2023, the petitioner has approached this Court by way of an anticipatory bail application being BAIL APPLN. 3988/2023 wherein this Court, vide order dated 24.11.2023, directed no coercive action to be taken against the petitioner subject to him joining investigation. It is further stated that the petitioner thereafter has joined the investigation on 28.11.2023, 01.12.2023 and 15.01.2024. Eventually, the anticipatory bail



application came to be dismissed on merits and the said order was assailed before the Supreme Court by way of SLP (Criminal) 4541/2024. In the said proceedings, vide order dated 03.04.2024, the Supreme Court granted interim protection to the petitioner. Subsequently, on 06.11.2024, the SLP came to be disposed of while noting that the petitioner had not only joined the investigation but had also appeared before the Trial Court on 25.04.2024, 13.05.2024, 26.06.2024, 12.08.2024 as well as on 15.10.2024. The interim protection granted to the petitioner was also made absolute. On the strength of the aforesaid, learned Sr. Counsel submits that the petitioner, having joined the investigation and also appeared before the Trial Court, the Trial Court erred in not cancelling the orders whereby the petitioner was declared P.O.

Additionally, it is stated that the summons and warrants in the present case were not served at the petitioner's permanent address, i.e., at *Talgoria More, Jamgoria, Bokaro, Jharkhand*. In fact, the petitioner was sought to be served with warrants atn *Quarter No. 2170, Sector 8/D, New Post Office, Sector-9, Bokaro, Jharkhand*. Further, it is stated that on account of demise of his father, the petitioner was not even residing at his permanent address in *Bokaro, Jharkhand* at the relevant time and was rather living in *Vrindavan, U.P.*

3. The petition is resisted by Ld. APP for the State, who submits that the petitioner was rightly declared P.O. for not having joined the investigation despite being served.

4. At this stage, Id. Senior Counsel, on instructions from the petitioner, submits that the petitioner undertakes to appear before the Trial Court on each and every date, unless specifically exempted. The undertaking given on



behalf of the petitioner is accepted and taken on record and he is made bound by the same.

5. I have heard the learned counsels for the parties and have also gone through the material available on record.

6. It has been contended on behalf of the petitioner that the petitioner was not served at his permanent address. Concededly, the summons and warrants were served at a different address, i.e., at *Quarter No. 2170, Sector 8/D, New Post Office, Sector-9, Bokaro, Jharkhand*. Moreover, indisputably the petitioner has not only joined the investigation but has also appeared before the Trial Court on multiple occasions. Considering the explanation tendered on behalf of the petitioner and in view of the undertaking given on his behalf, the impugned order dated 06.1.2023 declaring the petitioner as P.O., is hereby set aside.

7. Accordingly, the present petition is disposed of in the above terms alongwith pending applications.

MANOJ KUMAR OHRI, J

DECEMBER 18, 2024

ga