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

+ **CRL.M.C. 4035/2024**

MUKUL

.....Petitioner

Through: Mr. Shubham Asri, Mr. Vijay Khatri,
Mr. Sagar, Mr. Hardik Aggarwal, Mr.
Gaurav Verma, Mr. Atul Rathi, Mr.
Mohit Rathor, Advs.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondent

Through: SI Narender, PS, Kanjhawla, Insp.
Surender.
Mr. Roopansh Purohit, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

21.08.2024

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1. The present application has been moved challenging the impugned order dated 07.12.2023, whereby the application for cancellation of bail of accused/ Respondent No.2 namely Mr. Sumit Chhikara was moved by the petitioner which was subsequently dismissed by the Ld. Session Court.
2. In backdrop a Case FIR No. 61/2023 was registered at PS Kanjhawla under Section 307/120B/34 IPC & 25/27/54/59 Arms Act on 04.03.2023 on the statement of Mr. Aayush S/o of Mr. Deepak Dabas. The alleged incident happened on 03.03.2023 subsequently the



accused/respondent No.2SumitChhikara was arrested on 08.03.2022. Thereafter the learned Session Court vide Order dated 16.06.2023 admitted the accused to bail on certain conditions. The petitioner aggrieved by this order of the Ld. Session Court filed an application for cancellation of bail which was dismissed by the Ld. Session Court. The petitioner has challenged the Order dated 07.02.2023 before this Court on the grounds that the investigation has been conducted in the mechanical manner. It has been submitted that the statement of the victim recorded by his father by video on 15.03.2023 has not been considered by the IO. The petitioner is aggrieved of the fact that the investigation is not been conducted in a fair manner.

3. The petitioner has stated that he has been victimized not only by the accused but also by the IO. The petitioner has further submitted that the statement under Section 161 Cr.P.C. of the victim dated 02.04.2023 indicated that some person had fired in the stomach of the victim, contrary to the statement recorded on 15.03.2023 wherein the victim has categorically and specifically stated that the firing in the stomach was caused by accused Ritik and another shot was caused by Sumit Chikara. In the grounds taken for the cancellation of the bail, the petitioner has also stated that even during the hearing of the bail application IO did not disclose the complete facts. The petitioner came to know about the unfair investigation only after the charge sheet was filed. The petitioner has also stated that subsequently FIR No. 249/2023, PS Kanjhawla U/s 323/341/506 IPC was lodged by the father of the victim alleging that he was threatened and assaulted at the behest of the accused person to withdraw the present case. The



petitioner has also stated that a bail application of co-accused Ritik was dismissed by this Court vide Order dated 10.01.2024. The petitioner has stated that the accused/ respondent no2 has been misusing the liberty of the bail granted.

4. Learned counsel for the petitioner argue that the learned Session Judge granted the bail on 16.06.2023 mechanically even without going into the facts of the case. Learned counsel submits that learned Session Judge has noted wrongly that there was no impediment against accused/respondent no2 Sumit Chhikara.
5. Learned counsel for the petitioner has also played in court today the video recording evidence of the victim which has been recorded by his father on 15.03.2023. Learned counsel submits that in this video recorded the victim has specifically named the accused persons. Learned counsel for the petitioner further submits that the Police has not recorded the statement of the victim and witnesses correctly.
6. Learned counsel has also submitted that the investigation has been botched up by the Investigation Officer to favor the accused person. Learned counsel submits that his private complaint against the Police Officer is pending consideration before the learned MM.
7. Learned APP submits that the in Case FIR No. 349/2023, PS Kanjhawla the charge sheet has already been filed. Learned APP submits that there was no CCTV footage or independent witness of the incident. It has been submitted even the father of the victim did not give any number of the motorcycle. Learned APP also submitted that investigation is still continue. Learned APP submits that in the present case FIR No. 61/2023, the charge sheet has already been filed.



8. Learned APP submit that as per instruction of IA no complaint against the present petitioner other than having been filed by the father of the complainant has been received. There is no other criminal antecedent of the respondent No. 2.
9. Learned counsel for the complainant also submits that even if the complaint of the father of the victim on the basis of which FIR was lodged indicates that this was only on the basis of the presumption that the father of the victim has been threatened or assaulted at behest of the accused persons. Learned counsel for the complaint submits that learned additional Session Judge has granted the bail on the basis of the merit and therefore there is no ground to cancellation of the bail.
10. In ***Vipan Kumar Dhir v. State of Punjab &Anr. (2021) 15 SSC 518*** it was inter-alia held as under:

9. At the outset, it would be fruitful to recapitulate the well-settled legal principle that the cancellation of bail is to be dealt on a different footing in comparison to a proceeding for grant of bail. It is necessary that “cogent and overwhelming reasons” are present for the cancellation of bail. Conventionally, there can be supervening circumstances which may develop post the grant of bail and are non-conducive to fair trial, making it necessary to cancel the bail.

11. In ***Dolat Ram &Ors v. State of Haryana(1995) 1 SCC 349***, it was inter-alia held as under:

“4. Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted.



Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are : interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, 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 the trial.....”

13. The law regarding cancellation of bail is very well settled. A bail once granted to the accused can be interfered only if there are supervening circumstances in the form of the misuse of the liberty or the conduct of the petitioner. Bail is liable to be cancelled if order granting bail is illegal and perverse and based on irrelevant considerations or ignores relevant materials irrespective of whether supervening circumstances like violation of bail conditions have taken place or not. The bail can also be challenged if the same has been granted on the extraneous circumstance which was actually not available.
14. There are no supervening circumstances or the material that accused has misused the bail in any manner. The FIR lodged by the father of the complainant is pending investigation. Ld. APP has submitted that the complainant is bereft of certain material particulars. Placing reliance on video recorded statement of the victim by his father in contrast to the case of the prosecution can be risky at this stage. The liberty of an individual is important and can be curtailed only in exceptional



circumstance.

15. The earlier application for rejection of bail has already been dismissed by the Ld. Session Court vide detailed and reasoned order. Since there is no substance, the present petition stands dismissed.

DINESH KUMAR SHARMA, J

AUGUST 21, 2024/NG/DG