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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 8677/2023, CRL.M.A. 32439/2023, CRL.M.A.
32440/2023

RAJESHWARI

..... Petitioner

Through: Mr. Shiv Kumar Gautam, Mr. Shanu
Ansari and Ms. Niharika Kashyap,
Advocates.

versus

STATE OF GOVT. OF NCT OF DELHI & ANR..... Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with SI Sudhir, P.S. Nabi Karim.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

24.01.2024

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1. By way of present petition filed under Section 482 Cr.P.C., the petitioner seeks to assail the order dated 18.11.2023 whereby learned ASJ has set aside the order dated 18.11.2022 granting bail to the petitioner in FIR No. 230/2022 registered under Sections 448/380/506 IPC at Police Station Nabi Karim.

2. Learned counsel for the petitioner states that the petitioner was initially arrested on 28.09.2022 and thereafter released on bail on 18.11.2022. Thereafter, complainant filed an application seeking cancellation of bail and, vide the impugned order the bail has been cancelled on 18.11.2023. The applicant is in custody since then. Learned counsel submits that the entire premise of filing the application for cancellation by the complainant was the subsequent incident wherein it was alleged that the



petitioner alongwith his associates broke open the locks of the concerned shop and committed theft of articles.

3. Apparently the parties are related to each other and are in litigation with respect to a shop admeasuring 5.86 square meter situated at ground floor of property bearing No. 6962, Multani Dhandha, Pahar Ganj, New Delhi - 110055. While the complainant has alleged that the said shop was purchased from the present petitioner through a Sale Deed dated 10.03.2021, the petitioner claims to be in possession of the same and in this regard has also placed reliance on the averments made in Civil Suit No. 1496/2023 tiled *Rajeshwari v. Bir Singh & Ors.* seeking cancellation, declaration, permanent injunction and mandatory injunction thereby praying for cancellation of aforementioned sale deed alongwith other ancillary reliefs.

4. A Status Report has been handed over which is taken on record. As per the Status Report, during the investigation the shop in question was visited and as per the *Kabzanama* the possession of the shop in question was handed over to the complainant and thereafter, the accused/petitioner trespassed into the property.

5. Considering that the possession of shop is a disputed question of fact which shall be ascertained in the civil proceedings pending between the parties, the impugned order is set aside and it is directed that the petitioner be released on regular bail subject to her furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Trial Court/Jail Superintendent/Duty M.M. and subject to the following further conditions :-

i) The petitioner shall not leave the NCR without prior permission of the concerned Court.



- ii) The petitioner shall provide her mobile number to the Investigating Officer on which she will remain available during the pendency of the trial.
 - iii) In case of change of residential address or contact details, the petitioner shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
 - iv) The petitioner shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
 - v) The petitioner shall regularly appear before the concerned Court during the pendency of the trial.
6. Petition is disposed of in the above terms alongwith miscellaneous applications.
7. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.
8. Copy of the order be uploaded on the website forthwith.
9. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present petition.

MANOJ KUMAR OHRI, J

JANUARY 24, 2024

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