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

+ **W.P.(CRL) 3004/2024 & CRL.M.A. 29223/2024**

ANIL BANSAL

.....Petitioner

Through: Ms. Mohini Bhatt, Mr. Siddharth
Agarwal and Mr. Vinayak Mishra,
Advocates.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Amol Sinha, ASC for the State
with Mr. Kshitiz Garg, Mr. Ashvini
Kumar and Ms. Chavi Lazarus,
Advocates.

Insp. Harish Chandra, P.S.: EOW.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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25.10.2024

CRL.M.A. 29224/2024 (exemption)

Exemption granted, subject to just exceptions.

The application stands disposed of.

W.P.(CRL) 3004/2024

By way of the present petition under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), the petitioner impugns order dated 18.09.2024, whereby in a criminal revision petition bearing No.9CrRev/545/2024 filed by respondent No.2, the learned Sessions Court has been pleased to stay an order dated 10.09.2024 made by the learned Chief Judicial Magistrate in case FIR No.66/2024 dated 07.02.2024 registered under sections 420/406/34 of the Indian Penal Code, 1860 at P.S.: Greater Kailash, New Delhi.



2. By order dated 10.09.2024, the learned Magistrate had cancelled the bail granted *vide* order dated 26.02.2024 to respondent No.2/accused – Subhash Garg - for reasons as detailed in that order; had directed the accused to surrender by 04:00 pm on 19.09.2024; and had sought a compliance report from the concerned Jail Superintendent on 20.09.2024. This order was taken-up by way of a criminal revision petition, on which the impugned order dated 18.09.2024 has come to be passed by the learned Sessions Court.
3. Ms. Mohini Bhatt, learned counsel for the petitioner submits, that it is settled law that an order cancelling bail is an interlocutory order and is therefore not amenable to the revisional jurisdiction of a court under section 397 of the Code of Criminal Procedure, 1973 (or under its equivalent provision, *i.e.* section 438 of the BNSS). Counsel submits that this point was argued before the learned Sessions Court but in a cryptic and short order sans any reasoning, the learned Sessions Court has stayed the bail cancellation order, which it ought not to have done.
4. In view of the nature of the relief prayed-for, it is not deemed necessary to issue formal notice on the petition.
5. That said, this court has briefly heard Mr. Amol Sinha, learned ASC (Criminal) appearing for the State as well as Mr. Mudit Jain, learned counsel on behalf of respondent No.2/accused.
6. A perusal of order dated 18.09.2024 would show, that in effect and substance, the learned Sessions Court has passed the said order only to maintain *status-quo* in relation to the accused, who is out on bail and whose bail has been cancelled by the learned Magistrate *vide* order dated 10.09.2024, with a direction to him to surrender by 19.09.2024.



Evidently, the learned Sessions Court has done so in order to ensure that the liberty granted to the accused by way of bail, is not summarily cancelled, while a challenge to the same was still pending.

7. Since the matter is still pending further consideration before the learned Sessions Court, and this court is also informed that the next date of hearing before the learned Sessions Court is *16.11.2024*, this court *does not deem it appropriate* to entertain the present writ petition in exercise of its extraordinary powers.
8. In the circumstances, and so as to balance equities and to ensure that both sides are duly heard, the present petition is disposed-of at the stage of issuance of notice itself, directing that the matter be taken-up by the learned Sessions Court on *13.11.2024* for further consideration of the criminal revision petition pending before it.
9. Needless to add that the learned Sessions Court would first hear the parties on the issue of the maintainability of the revision petition.
10. This court would also observe that the Investigating Officer must ensure that in the meantime the accused/Subhash Garg does not conduct himself in a manner that would prejudice the pending proceedings.
11. The petition stands disposed-of in the above terms.
12. Pending applications, if any, also stand disposed-of.
13. It is made clear that this court has not considered the merits of the matter.

ANUP JAIRAM BHAMBHANI, J

OCTOBER 25, 2024/ak