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

+ **CRL.M.C. 7128/2023**

XXX

.....Petitioner

Through: None.

versus

STATE NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Hitesh Vali, APP for the State.
Mr. Mohd. Nazim, Advocate for R-2.
SI Nitin, P.S. Jamia Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

03.02.2025

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1. This hearing has been done through hybrid mode.
2. The present petition under Section 439(2) read with Section 482 of the Cr.P.C. seeks the following prayers:

“(a) cancel bail of the respondent no.2 in FIR No. 428/2021, under section 376D/354(C)/323/506 IPC, PS Jamia Nagar, and set aside the order dated 26.08.2023 passed by Mr. Dheeraj Mittal Ld. ASJ (SC-RC), South East District Saket Courts, New Delhi in the interest of justice; ·

(b) pass such order of further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

3. *Vide* order dated 23.09.2024, the Predecessor Bench of this Court has observed as under:

“2. The petitioner/complainant has remained unrepresented for the last two dates and noticing so, the IO of the case was directed to inform the petitioner/prosecutrix about the status of the present petition.

3. Learned APP for the State has handed over a Status Report wherein an attempt was made to inform the prosecutrix who was not found available at her house and in this regard the statement of her mother was also recorded stating that the prosecutrix is now



residing outside India.

4. At this stage, Mr. Surender Kumar, learned counsel for the petitioner who has joined the proceedings through VC states that he is also not receiving any instructions from the petitioner/complainant.

5. Although office noting records that Vakalatnama and counter affidavit have been filed on behalf of respondent no.2, it appears to be mistakenly written as neither the Vakalatnama nor the counter affidavit is on record.

6. Let a fresh notice be issued to the petitioner through all permissible modes, including through the concerned IO by way of a written notice, who shall also supply a copy of the petition to him, returnable on 22.10.2024.”

4. In pursuance of the aforesaid order, the notice was duly served on the petitioner which was received by her mother. By way of the following status report dated 22.10.2024, it records as under:

“As per the directions of the Hon'ble Delhi High Court, notice has been duly served to the Petitioner, which was received by her mother, Manju, W/o Momim, R/o 11/7, Ground Floor, Jogabai Extension, Jamia Nagar, Delhi. The mother informed that her daughter, XXX, is currently out of the country and residing in Japan. The Notice was sent on mobile phone of XXX and also talked to her regarding the date of High Court. All relevant information and evidence pertaining to the service of notice are also enclosed for the kind perusal of the Hon'ble Court.”

5. None appears on behalf of the petitioner. There was no appearance on behalf of the petitioner on 22.10.2024 and 22.11.2024 as well. In view of the above, the present petition is dismissed in default for non-prosecution and disposed of.

6. Pending application(s), if any, also stand disposed of.

AMIT SHARMA, J

FEBRUARY 3, 2025/bsr

[Click here to check corrigendum, if any](#)