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

+ **CRL.M.C. 3332/2021**

STATE OF NCT OF DELHI

.....Petitioner

Through: Mr. Shoaib Haider, APP for State
with Insp. Bal Ram, P.S.Subhash
Place.

versus

SHIVAM @ SANTTA & ORS.

.....Respondents

Through: Mr. Rahul Thakur, Advocate for R-2
& 3.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

21.04.2025

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1. Petition under Section 439 (2) Cr.P.C has been filed to seek cancellation of bail granted to the Respondents *vide* Order dated 10.12.2019 in FIR No.206/2018, under Sections 302/307/324/201/120B/34 IPC and Sections 27/54/59 Arms Act, P.S.Subhash Place.
2. It is submitted in the Application that the aforesaid three Respondents have been granted bail on 10.12.2019 by the learned Sessions Judge.
3. Brief facts of the case are that the Complainant Sandeep gave a statement to the Police on 27.05.2018 at about 9 PM that he along with Rakesh and Roshan, had gone to I Block Mandi for purchasing household goods. While they were standing on the road near Chaudhary Dairy, Respondents Sagar @ Kutto alongwith Vikrant,

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Monu , Ankit 2 taru, Adarsh, Ronak @ Sidhu, Kalu, Ashu @ Chanu, Lucky, Ankit @ Lavi, Shahil and Shivam came armed with knives and dandas.

4. They threatened to kill the Complainant and Rakesh. All of them attacked. Rakesh with knives and dandas resulting in the injuries which proved fatal. FIR was registered on the statement of the Complainant. The Chargesheet got filed before the learned CMM.

5. The bail granted *vide* Order dated 10.12.2019 is challenged by the State on the ground that the Order on bail is not based on factual matrix of the case. The offence committed is serious in nature. The accused Respondent Sagar @ Kattu had used the knife for commission of the offence. The Charges under Section 25/27 Arms Act have been framed against him.

6. The Complainant had given a statement against all the accused persons including the Respondents and they were all known to the Complainant. Furthermore, their presence can be seen at the place of incident in CCTV Footage. Considering the severity of offence, chances of tampering of the evidence and fleeing from justice could not be overruled.

7. Reliance has been placed on Dinesh Kumar Mittal vs. Govt. of NCT of Delhi, Bail Application No.1009/2011; Ved Prakash @ Kaju vs. State (NCT of Delhi), Bail Application No.163/2006 and Satish Jaggi vs. State of Chattisgarh & Ors, Crl.A.651/2007 to seek the cancellation of bail granted *vide* the impugned Order.

8. It is also submitted that the Bail Application of 6 co-accused persons was dismissed on account of the threats extended by them.

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Furthermore, Ankit Taru and accused Sagar @ Katto have threatened the eye witness Radha and FIR under Section 506 IPC has been registered. In Kalyan Chandra Sarkar vs. Rajesh Ranjan, Manu/SC/0214/2004 it has been held that the Court while granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail, a detailed examination of evidence and elaborate documentation of the merits of the case need not be undertaken, but there is a need to indicate the prima facie reasons for concluding why Bail was being granted in a particular case.

9. Considering the gravity of the offence and the threat extended to prosecution witness, there was no case made out for grant of bail. Hence, the recall of the Bail Order is sought, by way of the present Petition.

10. **Learned counsel for the Respondent** has submitted that there is no ground for cancellation of bail.

11. **Submissions heard and record perused.**

12. The case of the prosecution is that 10-12 boys aged 16-20 years, had come armed with dandas, etc with their faces covered with handkerchief thereby reflecting that they came with full preparation. However, in the CCTV Footage, Applicants could not be identified. It had also been observed that the Complainant did not cooperate during the investigations and even before the Court has failed to support the case of the prosecution in so far as the identity of the Respondents is concerned.

13. The Respondents were in judicial custody since 29.05.2018 and

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have been granted bail on 10.12.2018. There are no averments of they having misused the liberty of bail. It is already on record that the testimony of the Complainant has not recorded which she has identified them in her testimony. The prosecution evidence is still ongoing and has not been concluded.

14. Considering the totality of the circumstances, no case is made out for cancellation of bail.

15. Petition is hereby dismissed.

NEENA BANSAL KRISHNA, J

APRIL 21, 2025

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