



2025:DHC:1946



\$~1

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

Pronounced on: 25.03.2025

+ **CRL.M.C. 3247/2018 & CRL.M.A. 11639/2018**

POOJA KAUSHIK

.....Petitioner

Through: Mr. Abhimanyu Shrestha and Mr.
Pritesh Pathi, Advs.

versus

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

Through: Mr. Utkarsh, APP for State with SI
Ram Charan, AEKC/Crime Branch
Mr. Viresh B. Saharya, Mr. Harshvar
Devan Sharma, Mr. Akshat Aggarwal
and Mr. Rishabh Mathur, Advs. for
R-2.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J.

1. The present petition has been filed under Section 482 CrPC praying for quashing of order dated 18.06.2018 passed by the learned ASJ-06 (SE), Saket, New Delhi whereby the bail granted to the petitioner *vide* order dated 02.06.2017 in connection with FIR No. 49/2016 under Sections 420/468/471/506/34 IPC registered at PS Pul Prahladpur (subsequently transferred to PS Crime branch), was cancelled. The said FIR was registered on allegations of offence of forgery in respect of bills and documents of alleged purchases of clothing and jewellery against the petitioner and her family members.



2. Mr. Abhimanyu Shrestha, the learned counsel appearing on behalf of the petitioner submits that the supervening circumstances which have been considered by the learned ASJ in the impugned order are all pertaining to the period prior to the grant of interim protection by this Court *vide* order dated 22.06.2018.

3. He submits that one of the supervening circumstances which have weighed with the learned Additional Sessions Judge is the registration of FIR No.338/2017 under Sections 420/468/471 IPC registered at PS Saket wherein allegation of forgery and fabrication of certain documents, which were filed by the petitioner in DV matter, has been made. The said FIR came to be registered on 19.07.2017 on the basis of order dated 19.07.2017 passed by the learned ACMM (South), Saket Courts whereby an application under Section 156(3) CrPC of the son of the respondent no.2 was allowed. He submits that the offence alleged in the said FIR is prior to the bail granted to the petitioner in FIR No.49/2016, which was cancelled *vide* impugned order.

4. He further submits that in the case arising out of FIR No. 338/2017 the charges have been framed and the revision filed by the petitioner against the framing of charge is pending. He further submits that the petitioner is already on bail in the said case FIR No.338/2017.

5. The second supervening circumstance which has been considered by the learned Additional Sessions Judge is the registration of FIR No.636/2017 under Sections 147/148/149/326A/341/506 IPC at PS Palwal. The said FIR was originally registered at the instance of the petitioner wherein she had alleged acid attack against her by her in-laws. However, subsequently during investigation, the police opined that the allegations made by the



petitioner are false. The investigation revealed that the acid injuries were self-suffered as it is the father of the petitioner who had thrown acid on the petitioner to falsely implicate the complainant/respondent no.2, his sons and other family members. Accordingly, police filed the chargesheet against the petitioner and her father in FIR No.636/2017 under the aforesaid sections. He submits that as per the allegations in the chargesheet the incident is of August, 2017.

6. He submits that the trial in connection with FIR No. 636/2017 is underway and the petitioner is on bail in the said case. He further submits that during the pendency of the case FIR No. 636/2017, a compromise was arrived at between the petitioner and the complainant party, in terms of which the petitioner had withdrawn various cases. However, the Court refused to take cognizance of the said compromise.

7. He further submits that this Court in the present case had granted interim protection to the petitioner by directing that no coercive steps be taken against the petitioner *vide* order dated 22.06.2018 and till date the said interim order is continuing. He submits that ever since the passing of said order there is no further supervening circumstance pointed out by the complainant/respondent no.2 in the present case nor the petitioner had ever misused the liberty. Elaborating further, he submits that more than six years have elapsed since the petitioner was granted interim protection and this fact itself shows that the impugned order cancelling the bail of the petitioner has been rendered unsustainable with the passage of time.

8. *Per contra*, Mr. Viresh B. Saharya, the learned counsel appearing on behalf of the complainant submits that the liberty granted to the petitioner has been misused by her, inasmuch as she has further committed offences



which led to the registration of aforesaid two FIRs i.e. (i) FIR No. 338/2017 registered at PS Saket, and (ii) FIR No. 636/2017 at PS Palwal.

9. He submits that even subsequent to the order of this court dated 22.06.2018 *vide* which it was directed that no coercive steps be taken, one more FIR No. 389/2018 has been registered against the petitioner under Sections 420/468/471 IPC on 04.07.2018. He submits that the allegations in the FIR No.389/2018 are that petitioner had tendered a forged document on 09.08.2017 to the investigating office in the maintenance case filed by her.

10. He further refutes the submission of the learned counsel appearing on behalf of the petitioner that any compromise was arrived at between the petitioner and the complainant party. He, therefore, urges the Court that the present petition filed by the petitioner may be dismissed.

11. I have heard the learned counsel appearing on behalf of the parties and have perused the record.

12. There are two supervening circumstances which have been referred to in the impugned order while cancelling the bail granted to the petitioner. The first supervening circumstance is the registration of FIR No.338/2017 under Sections 420/468/471 IPC registered at PS Saket FIR. The said FIR was although registered on 19.07.2017 pursuant to the order dated 19.07.2017 of the learned ACMM (South), Saket Courts on the application under Section 156(3) CrPC of the son of the respondent no.2, but the offence of cheating and forgery alleged in the said FIR is prior to the bail granted to the petitioner on 02.06.2017 in FIR No.49/2016.

13. Insofar as FIR No.636/2017 under Sections 147/148/149/326A/341/506 IPC registered at PS Palwal is concerned, the allegations in the same are though of August, 2017 i.e. after the petitioner was granted bail on



02.06.2017 but the same is much prior to the protection from coercive action granted to the petitioner by this Court on 22.06.2018.

14. Likewise, the FIR No. 389/2018 was though registered pursuant to the order dated 04.07.2018 of the learned ACMM (South) directing registration of FIR but the allegation in the said FIR is that during the investigation of earlier FIR No. 338/2017, the petitioner again forged her company's letterhead and tendered the same to the IO, who seized the same *vide* seizure memo dated 09.08.2017.

15. As noted above, two out of the three FIRs referred to above, are *qua* the incidents which are post-grant of bail to the petitioner in FIR 49/2016 but this Court cannot be unmindful of the fact that this Court *vide* order dated 22.06.2018 passed in the present petition had directed that no coercive action be taken against the petitioner and the said order is still continuing. The respondents have not been able to point out any supervening circumstance after the grant of protection to the petitioner. Thus, during these 06 years and 09 months the petitioner has not misused the liberty granted to her.

16. Further, on a query posed by the Court, the learned counsel appearing on behalf of the complainant/respondent no.2 fairly concedes that the petitioner is already on bail in the three FIRs which are stated to be the supervening circumstances.

17. The law is well settled that the bail once granted, is not to be cancelled in a mechanical manner unless any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying concession of bail during trial. Very cogent and overwhelming circumstances are necessary when directing cancellation



of bail which has already been granted. Reference in this regard may be had to the decision of the Hon'ble Supreme Court in *Dolat Ram and Ors. Vs. State of Haryana 1995 (1) SCC 349*. In the said decision the Hon'ble Apex Court also delineated various grounds on which the bail already granted could be cancelled. The relevant part of the decision reads 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. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non-bailable case in the first instance and the cancellation of bail already granted.”

(emphasis supplied)

18. As there is not a single instance of misuse of liberty by the petitioner ever since she was granted interim protection *vide* order dated 22.06.2018 by directing that no coercive action be taken against her, the very basis of cancellation of petitioner's bail has paled into insignificance with the elapse of time.



2025:DHC:1946



19. Further, this Court cannot be oblivious to the fact that the petitioner is a woman and the present FIR is an offshoot of a marital discord of the petitioner with her husband.

20. Having regard to the totality of circumstances, this Court finds the impugned order has been rendered unsustainable with the passage of time. Accordingly, the impugned order dated 18.06.2018 is set aside and the order dated 02.06.2017 granting bail to the petitioner is restored.

21. The petition is disposed of in the above terms along with pending application.

VIKAS MAHAJAN, J

MARCH 25, 2025
N.S.ASWAL