

CNR No. DLNE01-001992-2019
SC No. 151/2019
State Vs Rahmatulla
FIR No. 612/2018
PS Khajuri Khas

29.01.2021

Present: Sh. Gaurav Pandey, Ld. Substitute Addl. PP for the State.
Sh. Arvind Kumar and Sh. Ankit Aggarwal, Ld. Counsel for accused
along with accused.
Ms. Nimisha Menon, Ld. Counsel for complainant.

Submissions on the application moved for cancellation of bail u/s
439 (2) Cr.PC heard.

In the present matter, the accused has been put on the trial for the
offences punishable u/s 370/374 IPC, Section 3/14 of Child Labour (Prohibition
and Regulation Act, 1986) Act, Section 16 of Bonded Labour System (Abolition
Act, 1976 and Sections 75 and 79 of Juvenile Justice (Care and Protection of
Children) Act, 2015. The accused was allowed to be released on bail vide orders
dated 31.05.2019.

It is submitted that the bail granted to the accused was conditional
and he was directed that he shall not come into contact with or tried to influence
any of the witnesses connected to this case directly or indirectly and further that
he shall not directly or indirectly make any inducement, threat or promise to any
person so as to dissuade him/her from disclosing the facts from the court and
shall not tamper with the evidence in any manner.

It is submitted that the accused firstly influenced the victims and
their family and contacted the family of the victims and bribed them to not depose
against him in the court of law. It is submitted that the accused contacted the
families of the victim namely Mohd. Afroz, Mohd. Naushad, Mohd. Tazauddin and
Mohd. Irshad and he called these victims again and again on the cell phone of

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their parents from phone number 8851853818 and asked the victims to not come for deposing their evidence and that he also told them that he will make payments in their bank accounts if they will not travel and give their evidence against him. It is submitted that his relatives also reside in the same village as that of the victims and they also are harassing the victims and their families and threatening them to not give evidence against him. It is submitted that the accused indirectly through his relatives had already paid a sum of Rs. 3000/- to the parents of victims Naushad, Irshad and Afroz for travelling to Delhi for the deposition of their evidence. It is prayed that the bail be cancelled with immediate effect and reliance is placed upon cases of **Raghubir Singh & Ors Vs State of Bihar, 1986 SCR (3) 802 and Sushila Aggarwal Vs State, SLP (Criminal) Nos 7281-7282 of 2017.**

The application is opposed on behalf of accused with the submissions that the application is filed by the counsel for unnamed and unsigned victim and the same is not maintainable and has been filed with vested interest well known to the counsel. It is submitted that the application is filed by a counsel and not by any of the victim or his parents and the counsel is having no locus standi to initiate the present proceedings against the accused. The accused has denied the contentions made in the application about the efforts being made to contact the witnesses and their family members and issuing threats and alluring them to not to give evidence against him and the contentions of making payment to the witnesses to come to Delhi.

During the pendency of the application, affidavit of father of one of the witness was filed in support of the application and the IO was also asked to verify the allegations made in the application and ASI Mahipal Singh also filed his report in regard to contentions of making calls to the victims from the telephone furnished in the application.

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It is no doubt that the court which has released an accused on bail has power to cancel the bail if the said accused is found misusing the concession of grant of bail or of violating the conditions of the bail.

In the present case, the victims whose name are disclosed in the application with the submissions that their families are being contacted by the accused have been examined as witnesses during the trial on 11.02.2020 and 12.02.2020. The victims or their family members have not brought into the notice of the court or of the prosecution about the facts as contented in the application, at that time. The IO has found in his inquiry that one call was made by the telephone number mentioned in the application to a telephone pertaining to Mohd. Tazauddin on 12.09.2020 for 16 second. It is contention of the accused that he received a miss call on that day and when he called back to the number, he came to know that the telephone pertains to one victim and he disconnected the call. It is submitted that the said call is after the examination of said victim and filing of the present application and it cannot be said that the call was made to approach the witness not to depose in the court as the said witness has already been examined prior to call.

Considering the facts and circumstances of the case where the victims whose names are disclosed in the application have already been examined in the trial, the application is dismissed. However, the accused is reminded again about the conditions laid down by the Court while granting him to bail and is directed to follow the conditions.

The evidence of remaining victim is to be recorded through video conferencing as per the directions of Hon'ble Supreme Court and the court is apprised about the probable date to be fixed for recording of the child witness on Thursday/Saturday in first week of February 2021.

Ld. Counsel for accused prayed for fixing the dates for the recording of the witnesses in the second week of the February as he will not be

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available on Saturday falling on 6th February 2021 due to prior engagement. The counsel appearing for the victims have no objections if the dates are fixed for second week of the February and she also placed on file the present addresses of the victims. It is stated by Ld. APP that he has been deputed on duty for today only and the court may fix the matter as per its register and the convenience to the parties.

Considering the facts, let the summons be issued to the witnesses mentioned in the list of witnesses at serial number 8 and 9 for **08.02.2021**, witnesses mentioned in the list of witnesses at serial number 10 and 11 for **10.02.2021** and witness mentioned in the list of witnesses at serial number 12 for **12.02.2021**.

The summons will be served upon the witnesses through Ld. Secretary, DLSA, Sitamari, Bihar in terms of the directions. The Incharge, Computer Branch, Karkardooma Court Complex will send the summons through mail after getting the same from the court.

**(SUNIL CHAUDHARY)
Special Judge (NDPS)/ASJ
North East/ Delhi 29.01.2021**