

**IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR**

**BEFORE**

**HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA**

**ON THE 5<sup>th</sup> OF AUGUST, 2022**

**MISCELLANEOUS CRIMINAL CASE No. 38626 of 2022**

**Between:-**

**PROSECUTRIX THROUGH POLICE  
STATION GWALIOR, DISTRICT  
GWALIOR (MADHYA PRADESH)**

**.....APPLICANT**

***(BY SHRI ARUN SHARMA – ADVOCATE)***

**AND**

- 1. THE STATE OF MADHYA  
PRADESH, THROUGH - STATION  
HOUSE OFFICER OF POLICE  
STATION GWALIOR, DISTRICT  
GWALIOR (MADHYA PRADESH)**
- 2. MOHIT MAHESWARI S/O SHRI  
VINEET MAHESWARI, AGE - 31  
YEARS, OCCUPATION: PRIVATE  
JOB, R/O - KOTA MOHALLA,  
GWALIOR (MADHYA PRADESH)**

**.....RESPONDENTS**

***(SHRI NAVAL KISHOR GUPTA – PUBLIC PROSECUTOR  
FOR STATE)***

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*This application coming on for hearing this day, the Court passed  
the following:*

**ORDER**

This second application under Section 439 (2) of Cr.P.C has been filed for cancellation of bail granted to respondent No.2 by order dated 16.07.2021 passed in M.Cr.C. No.35026/2021.

It is submitted by counsel for applicant that the respondent No.2 was granted bail and the applicant had filed an application for cancellation of bail on the ground that she is being threatened by the respondent No.2. The said application was disposed of by order dated **06.05.2022** passed in **M.Cr.C. No.42117/2021** with the following observation :-

“The allegations made by the applicant are that after his release on bail, the applicant is being threatened by the respondent no.2 by sending whatsapp messages. The investigation, as to whether these messages were sent by the respondent no.2 or not, is yet to be completed. However, at the same time the protection of a witness is also of a paramount consideration. Accordingly, in the light of the judgment passed by the Supreme Court in the case of **Mahender Chawla and others Vs. Union of India and others** reported in **(2019) 14 SCC 615**, the Superintendent of Police, Gwalior is directed to provide adequate security to the applicant to ensure that no threat is given to her.

So far as the threatening allegedly extended by the respondent no.2 is concerned, the Superintendent of Police, Gwalior is directed to ensure that the investigation of Crime No.523/2021 is completed within a period of two

months. If it is found that the respondent no.2 had sent the threatening messages to the applicant, then the applicant shall be free to file a fresh application for cancellation of bail.

With aforesaid observations, the application is finally **disposed of.**”

It is submitted by counsel for applicant that although the Superintendent of Police, Gwalior was required to file the final report within a period of two months but the same has not been done, and therefore, the bail granted to respondent No.2 should be canceled.

Heard learned counsel for the parties.

If the police has failed to conclude the investigation, then respondent No.2 cannot be held responsible for the same. There is no allegation in the application to the effect that any threat was ever extended by respondent No.2 after the order was passed in M.Cr.C. No. 42117/2021. The only ground raised by the applicant for cancellation of bail is non-filing of final report. Since the respondent No.2 cannot be held responsible for the same, therefore, no case is made out for entertaining this application.

However, counsel for respondent No.1/State submitted that the Superintendent of Police, Gwalior shall ensure due compliance of order dated 06.05.2022 passed in M.Cr.C. No.42117/2021.

In view of the submission made by counsel for respondent No.1/State, nothing more is required to be done.

Accordingly, the application fails and is hereby **dismissed.**

A copy of this order be given to Shri Naval Kishor Gupta, Public

Prosecutor for communicating the same to the Superintendent of Police, Gwalior for necessary information and compliance.

**(G.S. AHLUWALIA)**  
**JUDGE**

Arun\*