

THE HIGH COURT OF MADHYA PRADESH**M.Cr.C. No.27542/2017**

Shri Anand Soni, learned counsel for the applicant.

Shri Durgesh Sharma, learned counsel for the respondent No.1/State.

ORDER

(Passed on 11/02/2019)

The applicant/complainant has preferred this application under Section 439(2) of the Cr.P.C. for cancellation of bail granted to the respondent No.1, vide order dated 31/07/2017 passed in M.Cr.C. No. 7704/2017.

2. Brief facts of the case are that on 07/12/2016, applicant/complainant made a written complaint at Police-station-Juni Indore alleging that respondent No.1 being a married man made a false promise to marry with the applicant and on the pretext of marriage he committed sexual intercourse with the applicant for about one year and thereafter, applicant married to one Pawan. It has also been alleged in the complaint that on 27/11/2016, respondent No.1 called the applicant and committed rape with her. On the basis of that complaint, an offence has been registered at Crime No. 402/2016 against the respondent No.1 for the offence punishable under Section 376(2)(n) of the IPC. After investigation, charge-sheet has been filed before the court of competent jurisdiction. Thereafter, respondent No.1 moved an applicant for grant of bail before this Court, which was registered as M.Cr.C. No. 7704/2017 and the respondent No.1 was granted bail by this Court, vide order dated 31/07/2017.

3. Learned counsel for the applicant submits that after obtaining the bail order from this Court, the respondent No.1 is continuously harassing the present applicant for turning hostile before the trial Court and he is creating the pressure upon applicant for compromise/ changing her statement before the trial Court. The respondent No.1 has also threatened the applicant that if she will not change her statement before the trial Court then he would throw acid on her and also committed rape with her younger sister. The respondent No.1 has created fear in the mind of applicant that if she would go to the trial Court to depose against him, then respondent No.1 may cause injury to the applicant or to her family members. On 07/12/2017, the applicant has also got registered an FIR at Police-station-Pithampur District-Dhar against the respondent No.1 for the offence punishable under Sections 452, 294 and 506 of the IPC alleging that respondent No.1 entered into her house and threatened her for changing the statements before the trial Court. Under these circumstances, learned counsel for the applicant prays for cancellation of the bail granted to the respondent No.1 by this Court, vide order dated 31/07/2017 passed in M.Cr.C. No. 7704/2017.

4. On the other hand learned counsel for the respondent No.1 opposed the application by contending that the respondent No.1 has not violated any of the condition imposed by this Court while granting bail to him and the applicant wanted him to remain in the custody, therefore, she has lodged a false complaint against him at Police-station-Pithampur, District-Dhar. There is no sufficient grounds are available on record for cancellation of bail granted to the respondent No.1 by this Court vide order dated 31/07/2017

passed in M.Cr.C. No. 7704/2017. Under these circumstances, he prayed for rejection of the application.

5. Having heard learned counsel for the parties and perused the documents filed alongwith the application.

6. From the perusal of the documents filed alongwith the application, it reveals that on the basis of complaint made by the applicant, an offence under Section 376(2)(n) of the IPC has been registered against the respondent No.1 and the charge-sheet has been filed before the competent Court. The matter is pending before the Vth Additional Sessions Judge, Indore and the charges were framed against the respondent No.1 on 11/04/2017. After that the case was fixed for recording the evidence of prosecutrix, however, she has not appeared before the trial Court for giving her statement, even after service ofailable warrant. The applicant claims that the respondent No.1 persistently threatened her for changing the statement before the trial Court and creating pressure on her for compromising the matter. He threatening her that if she would not change her statement before the trial Court, then he would throw acid on her. The applicant has also made complaint before the SHO, Police-station-Juni Indore alleging that after granting bail by this Court, the respondent No.1 caused injuries to her and on 07/12/2017, she has lodged a complaint alleging that respondent No.1 entered into her house and threatened her for changing the statements before the trial Court otherwise, he would throw the acid on her and committed the rape with her younger sister. On that basis Police registered an FIR at Police-station-Pithampur District-Dhar against the respondent No.1 bearing Crime No. 419/2017 for the offence punishable under Sections 452,

294 and 506 of the IPC.

7. Considering the aforesaid facts and circumstances of the case and the conduct of the respondent No.1 that after granting bail by this Court, he is threatening the applicant and tried to create pressure upon her for compromising the matter coupled with the fact that respondent No.1 has violated the conditions imposed by this Court while granting bail to him. In these circumstances, this application is allowed and the bail granted to the respondent No.1 by this Court, vide order dated 31/07/2017 passed in M.Cr.C. No. 7704/2017 is hereby canceled.

8. The respondent No.1 is directed to surrender before the trial Court on or before 22/02/2019 and after surrender of the respondent No.1, the applicant is directed to appear before the trial Court for recording her statement, failing which the respondent No.1 is at liberty to moved an application for grant of regular bail.

(S.K. Awasthi)
Judge

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