

Court No. - 15

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Case :- BAIL No. - 3763 of 2018

Applicant :- C.B.I Thru Superintendent Of Police A.C.B
Lucknow (Major Bc)

Opposite Party :- Shubham Singh & Anr

Counsel for Applicant :- Bireshwar Nath, Anurag Kumar Singh

Counsel for Opposite Party :- G.A., Amrandra Kumar, Anil
Pratap Singh

with

Criminal Misc. Application No.3765 (B) of 2018

C.B.I Thru Superintendent Of Police A.C.B Lucknow (Major
Bc) Vs. Brajesh Yadav and another

and

Criminal Misc. Application No.3766 (B) of 2018

C.B.I Thru Superintendent Of Police A.C.B Lucknow (Major
Bc) Vs. Naresh Tiwari alias Awadhesh Tiwari and another

Hon'ble Alok Mathur, J.

1. Heard Sri Dharmendra Pratap Singh holding brief of Sri Anurag Kumar Singh for the applicant, Sri Sunil Kumar Singh holding brief of Sri Anil Pratap Singh for opposite party No.2.

2. The memos of appearance filed by Sri Anurag Kumar Singh in all the three cases are taken on record.

3. Since these three cases arise out of common case crime and involve common questions of facts and law, hence, they are being decided by this common order.

4. These three applications for cancellation of the bail have been moved by Central Bureau of Investigation (in short C.B.I.) seeking cancellation of bail of accused-applicants Shubham Singh, Brajesh Yadav and Naresh Tiwari alias Awadhesh Tiwari respectively granted in case crime No.316 of 2017, police station Makhi, District Unnao under Sections 363, 366, 376 (D) and Section 3/4 of POCSO Act.

5. It has been submitted by learned counsel for the applicant that the accused applicants had moved application for bail

which was granted by this Court by means of orders dated 17.11.2017, 17.11.2017 and 15.3.2018 passed in Bail Application Nos.86241 of 2017, 9364 of 2017 and 6 of 2018 respectively. The matter was agitated before the Division Bench of this Court in Criminal Writ PIL No.1 of 2018 on the basis of the news papers cutting with regard to unfortunate incident in Unnao of rape and murder published in various news papers.

6. The incident involving in this case was widely reported in various newspapers as minor girl was allegedly raped by the Member of Legislative Assembly. The prayer in the public interest litigation was also to transfer the investigation to the C.B.I. Looking into the influential persons who were accused in the said case and consequently by means of the judgment and order dated 13.4.2018 this Court had handed over the investigation to the C.B.I. to carry out further investigation of case crime No.316 registered on 20.6.2017 for the offence under Sections 363, 366, 376-D IPC and 3/4 of POCSO Act along with other three case crimes being case crime No.s 89 of 2018, 90 of 2018 96 of 2018 to take it to its logical end within the prescribed time. This Court had further directed the C.B.I. to consider whether cancellation of bail of accused in case crime No.316 of 2017 is necessary for carrying out free and fair further investigation.

7. The C.B.I., which is the applicant before us, has stated that in pursuance to the direction of Division Bench of this Court has moved present application for cancellation of bails. The affidavits filed in support of the applications is of only six paragraphs and it is only in paragraph No.6 in which ground for cancellation of bail has been mentioned and it reads *"that the bail of the accused-applicants is liable to be cancelled for carrying out free and fair further investigation by the C.B.I. as there is reasonable ground to believe that the accused may threat the victim/witnesses and tamper with the evidence yet to be collected during further investigation."*

8. These applications were moved in 2018 and it has been informed by the counsel for the accused-applicants that since then the investigation has been concluded and the charge sheet is filed and the trial is progressing in the learned court of Tees Hazari at Delhi.

9. We have to note with deep regret and anguish that a premier investigating agency has moved present applications merely on the liberty being granted by the Division Bench of this Court to move application for cancellation of bails without adducing any

material or cogent reason in support of the same. Exercising their liberty to move the present applications, some materials should have been placed to support the ground taken for cancellation of bail that there is likelihood of the applicants interfering with free and fair investigation, but apart from reiterating the order of the Division Bench, there is no averment in the said applications and, therefore, this Court finds the applications to be sheer abuse of the liberty granted by this Court and deprecates this practice of filing such frivolous applications by the investigating agencies.

10. There is absence of any material whatsoever in support of the application, nor any fact has been mentioned on the basis of which the bail is sought to be cancelled. This Court does not appreciate or expect the C.B.I. to file such applications bereft of any cogent material for examination before the Court as it only adds to the burden of the judicial system, and the outcome in present circumstances cannot be of any benefit to the applicant. The investigating officers and the legal officers should apply their mind before approaching the Court and filter out such frivolous petitions for which they would be held responsible.

11. In absence of any material and also considering the fact that the investigation has concluded and there is now no possibility of the accused tampering with the evidence, the present applications are **dismissed**.

12. Let a copy of this order be sent to Director, Central Bureau of Investigation for information and necessary action.

Order Date :- 20.9.2021
RKM.

(Alok Mathur, J.)