

MCRC-5617-2015

(NEHA SONI Vs MAHENDRA RAI)

30-09-2015

Shri S.D.Mishra, Advocate for the applicant.

Shri S.N.Saraf, Advocate for the respondent no.1.

Shri R.N.Yadav, Panel Lawyer for the respondent
no.2/State.

Heard.

Seeking cancellation of bail granted by this Court under
section 438 Cr.P.C. vide order dated 21.3.2014 passed in
M.Cr.C.No.3423/2014, this petition has been filed.

Learned counsel for the applicant contends that the bail
was granted relying upon an affidavit produced by the non-
applicant no.1 with respect to marriage with the present
applicant. The said affidavit is a forged document.

Counsel for the applicant has filed two affidavits of the
witnesses before this Court indicating the fact that applicant has
not sworn the affidavit relied by this Court. In addition thereto,
it is urged that non-applicant no.1 is victimizing and molesting
the applicant every day in the court premises to which a
complaint was also made in the Bar Association, whereupon
recommendation to take appropriate action has been made. In
view of the aforesaid, it is prayed that benefit of anticipatory bail
granted to the applicant may be withdrawn.

On the other hand, learned counsel for non-applicant no.1
contends that a bare perusal of the signatures of the applicant in
this case as well as on the alleged affidavit it is apparent that she
herself has signed thereupon. The notary before whom the

affidavit was sworn has not come forward to say that the said affidavit was not executed by the present applicant. In absence thereto, the document relied upon by this Court while extending the benefit of discretion cannot be ignored. So far as the allegation regarding molestation to the applicant and other things are concerned, appropriate action be taken in accordance with law. In view of the aforesaid, prayer is made to reject the application.

Learned Panel lawyer submits that it is the dispute between the Advocates of applicant as well as non-applicant no.1, however, in the said case this Court may pass appropriate orders.

After hearing learned counsel appearing on behalf of both the parties and on perusal of the affidavit filed in M.Cr.C.No.3423/2014 and the signatures as put by the applicant thereupon and also the signature put in this case, both resembles from bare eyes. In addition to the same, the notary before whom the applicant sworn the earlier affidavit has not come forward to deny the execution thereof. In absence thereto, while exercising jurisdiction this court has relied upon the said affidavit, which cannot be accepted as a forged document. So far as the victimization and molestation of the applicant is concerned, it is open to the applicant to take appropriate action against the non-applicant no.1 in accordance with law.

With the aforesaid observation, this application is rejected.

Certified copy as per rules.

(J.K. MAHESHWARI)

JUDGE