

Session Case No. 253/2019
FIR No. 352/2018
PS-Bawana
State Vs. Mohd. Salim @ Pintu
U/s-376A IPC

17/02/2020

Present. Sh. Sanjay Jindal, Id. substitute Addl. PP for the State.
Accused on bail with Id. Counsel Sh. M.R. Sharan.
Complainant with Id. Counsel Sh. Haider Ali.
New IO SI Vijay Kumar is present and has filed the reply
pursuant to notice of the application u/s 439(2) Cr.P.C. of
complainant for cancellation of bail of the accused.
Heard on the application.

New IO has submitted that the CD handed over by the
complainant on last date of hearing qua her mobile conversation with
the accused i.e. her husband, has been verified to be containing the
voice of the accused, wherein the accused has been found
threatening the complainant. The said conversation took place after
the accused was granted bail. The complainant present in the Court
has confirmed that the accused is threatening her.

The accused was granted bail vide order dated
29/03/2003 of Sh. Umed Singh Grewal, Id. ASJ, Special Fast Track
Court (North), Rohini Courts, Delhi, subject to the condition that he will
not threaten the witnesses, will not flee from justice and will not do any
such act which may affect the administration of justice. Section 439(2)
Cr.P.C. provides that a High Court or Court of Session may direct that

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any person who has been released on bail under this Chapter (XXXIII) be arrested and commit him to custody. From the aforesaid reply filed by IO, it is clear that accused was granted bail in the present case of acid burning of his wife (which is prima facie corroborated with her medical evidence) and has violated the conditions of the bail. Accordingly the application is allowed and the bail granted to the accused is cancelled. **Accused be taken into custody and be remanded to J.C.** The application is accordingly disposed of.

Even **previous cost of Rs. 1,000/-** imposed upon the accused vide order dated 30/11/2019 has not been deposited. **Be deposited by next date of hearing.**

Arguments on the point of charge heard.

In case titled as '**Bhawna Bai Vs. Ghanshyam and others**', (**Criminal Appeal No. 1820 of 2019**) **Arising out of SLP(Crl.) No. 6964 of 2019**, Hon'ble Supreme Court of India has observed in para 16 of the said judgment as under:-

“Para 16.....For framing the charges under Section 228 Crl.P.C, the judge is not required to record detailed

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reasons. As pointed out earlier, at the stage of framing the charge, the court is not required to hold an elaborate enquiry; only prima facie case is to be seen. As held in Knati Bhadra Shah and another V. State of West Bengal (2000) 1 SCC 722, while exercising power under Section 228 Crl. P.C, the judge is not required record his reasons for framing the charges against the accused.....”

In view of the afore-said case law, detailed reasons for framing of charge are not required to be given.

Since there is no medical opinion on the MLC qua the nature of injury to the victim/injured as to whether the same was simple or grievous and Id. Substitute Addl. PP has admitted that the same could not be obtained as the victim/injured did not appear before concerned doctor for subsequent opinion, hence no charge for the offence u/s 326-A IPC is made out against the accused. However a prima offence case for the offence u/s 326-B IPC is made out against the accused as there is strong suspicion that he had committed the said offence. Accordingly charge has been framed

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against the accused separately, to which he pleaded not guilty and claimed trial.

Re-notify for PE on 15/05/2020 & 16/05/2020.

(Ashutosh Kumar)
Addl. Sessions Judge: 04 (North)
Rohini Courts: Delhi: 17/02/2020(A)