

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C.No.359/2007**

% **Date of Decision: 01.09.2008**

Nidhi Jain Petitioner

Through Mr.S.K.Rungta, Advocate

Versus

State & Ors Respondents

Through Mr.R.N.Vats, Advocate
Mr.R.K.Jain, Advocate for the
respondents.
SI Krishan, CAW Cell, NE District.

CORAM:
HON'BLE MR. JUSTICE ANIL KUMAR

- | | | |
|----|---|-----|
| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

*

The petitioner/wife seeks cancellation of anticipatory bail granted by the Sessions Judge by order dated 20th December, 2006 wherein it was held that the respondents No.2 to 8 be released on bail on their furnishing personal bond in the sum of Rs.15,000/- with one surety each of the like amount to the satisfaction of the IO/SHO concerned. The respondents No.2 to 8 were also directed to join investigation with the IO as and when called.

The learned counsel for the petitioner has admitted that after the grant of anticipatory bail by order dated 20th December, 2006 there has not been any violation of the terms and conditions on which the anticipatory bail was granted to the respondents No.2 to 8. The respondents No. 2 to 8 have joined investigation as and when directed.

The learned counsel for the petitioner contends that after the complaint dated 17th February, 2006 was filed on behalf of the petitioner by her father, another complaint was filed on behalf of respondents No.2 to 8 pursuant to which the petitioner had to go to the police station where some sort of understanding was arrived at between the complainant and respondents No.2 to 8 pursuant to which the complaint filed by respondents No. 2 to 8 was withdrawn by them. The learned counsel contends that filing of complaint prior to grant of anticipatory bail was an attempt by the respondents No.2 to 8 to harass and pressurize the petitioner which is a ground for cancellation of anticipatory bail granted to the respondents No. 2 to 8. The learned counsel for the petitioner has also sought cancellation of anticipatory bail on the ground that the fact about the divorce petition filed by the husband, respondent No.2 was not considered as that has led to harassment of the petitioner and her two children.

Perusal of the complaint filed on behalf of petitioner reveals that the allegations are too generic without any particulars. The complaint filed on behalf of petitioner by her father is as under:-

“I respectfully beg to say that the marriage of my daughter, Nidhi has been performed with Deepak Jain, s/o Shri Devender Kumar Jain, R/o 1/218, Shri Ram Nagar, Sahdara, Delhi-32 on 11th October, 2002. After some time of marriage they used to give beating to my daughter and asked for money and articles. We gave them whatever we could. They tortured my daughter regularly. At the time of birth of son they took my daughter to the hospital where no facility was available and they also not present there. They took the whole jewellery and money from my daughter and gave beatings and thrown out of home. He himself left home on 25th July after gave beatings to her and went to his parents home and left her in rental home. On 13th of July I went to his home with my son and V.P. Jain (Nidhi's mama). After discussions he promised that he will come to our house on 14th but he did not come.”

The grounds which have been raised by the petitioner are not material for cancellation of the anticipatory bail granted to the respondents No.2 to 8 in the present facts and circumstances. The fact that the respondents No. 2 to 8 had filed a complaint against the petitioner which was later on withdrawn by them cannot be a ground for cancellation of bail. Similarly filing of divorce petition by the husband of the petitioner cannot be a ground for cancellation of bail of the husband in the present facts and circumstances.

The learned counsel for the petitioner has also relied on AIR 1978 SC 179, Gurcharan Singh & Ors v. State and 1977 CrL.L.J.104, State of Gujarat v. Hirasing Kesarising Solanki to contend that the anticipatory bail granted to the respondents No.2 to 8 is liable to be cancelled. In State of Gujarat (Supra) relied on by the petitioner the anticipatory bail

granted to the accused was cancelled because the Magistrate had not considered the fact that the accused police inspector had snatched the money with the help of his subordinates and had used force against the victim and the Magistrate had not even considered the alleged sickness on the basis of which the anticipatory bail was granted and thus the learned Single Judge was of the view that the circumstances which were not considered, were sufficient to decline anticipatory bail to the accused and had cancelled the bail.

In contradistinction, in the present case the husband had filed a complaint against the petitioner in which the petitioner had to appear before the police authorities where a settlement was arrived at and on account of some sort of understanding between the parties, the respondents No.2 to 8 had withdrawn the complaint against the petitioner. This will not be a sufficient ground to cancel the anticipatory bail granted to respondents No.2 to 8. Similarly, ground that the husband has filed a divorce petition against the petitioner, will not be a ground for cancelling the anticipatory bail granted to respondents No.2 to 8. Even on the merits of the case the allegation against the respondents No. 2 to 8 are very generic in the complaint filed on behalf of petitioner by her father.

The judgment relied on by the petitioner, Gurcharan & Ors (Supra) is also distinguishable as in the said case some police personnels who had caused death of one Sunder by drowning him in

the Jamuna river pursuant to the conspiracy, were not first implicated on the basis of six eye witnesses but later on in the course of further investigation and on recording seven other witnesses they were got implicated and the bail was cancelled. The statements which were made subsequently revealed that the earlier statements absolving the accused were made on account of pressure on them and in the circumstances the bail granted to the accused was cancelled observing that some relevant facts were not taken into consideration.

The case of the petitioner is distinguishable and in the totality of facts and circumstances, there are no grounds to cancel the anticipatory bail granted to the petitioner by order dated 20th December, 2006 in FIR No.582/2006 Police Station Mansarovar Park under Sections 498A/406/34 IPC. Therefore, the petition is without any merit and it is, therefore, dismissed.

Dasti.

September 01, 2008
'k'

ANIL KUMAR, J.