

CRM-M-18240-2015 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-18240-2015 (O&M).
Decided on: December 22, 2015.**

Rajwinder Kaur

..... Petitioner(s)

Versus

State of Punjab and others

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Karan Bhardwaj, Advocate,
for the petitioner.**

Ms.Harpreet Kaur Athwal, DAG., Punjab.

Respondent Nos.2 & 3 in person.

M.M.S. BEDI, J (ORAL).

Petitioner seeks the cancellation of the pre-arrest bail granted to respondent Nos.2 & 3 vide order dated 14.7.2014 in FIR No.22 dated 25.3.2014 under Section 498-A, 406 and 120-B IPC Police Station, Sadar, Muktsar.

Respondent Nos.2 & 3 had been granted the concession of pre-arrest bail by this Court subject to certain conditions that they would hand over a bank draft of Rs.2 lacs in the name of the complainant to the Investigating Officer within a period of two months which would be adjustable against any final amount determined between the parties pertaining to the matrimonial relationship or in context to the cash and dowry articles.

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The complainant has filed this application for cancellation of the order dated 14.7.2014, on the ground that the condition of deposit of Rs.2 lacs has not been complied with. Respondent Nos.2 & 3 are present in the Court. On the last date of hearing, they had appeared and expressed their inability to pay the amount to the complainant or to comply with the conditions imposed by this Court. A fair opportunity has been given to the respondent Nos.2 & 3 to comply with the condition.

I have also taken into consideration the status of the trial. It has been informed by the State counsel that trial is at the stage of recording of evidence and two witnesses stand already examined. Today again, respondent Nos.2 & 3, present in the Court, have expressed their inability to comply with the condition.

I have carefully considered the facts and circumstances of the case and I am of the opinion that the liberty granted to respondent Nos.2 & 3 was subject to the conditions mentioned in the order dated 14.7.2014, Annexure P2. Respondent Nos.2 & 3 have not challenged any of the conditions by filing any petition before this Court or before any other Court. They are availing the concession of pre-arrest bail since 14.7.2014 despite the fact that condition No.3 has not been complied with by them till date.

Without expression of any opinion regarding the ability of the respondent Nos.2 & 3 to pay the amount, it is apparent that the order dated 14.7.2014 and the conditions mentioned therein

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have become final. On account of non-compliance of the conditions, the only order which can be passed by this Court is to cancel the concession of pre-arrest bail granted to respondent Nos.2 & 3 on account of non-fulfillment of one of the conditions.

A perusal of order dated 14.7.2014 clearly indicates the circumstances in which the conditional order of pre-arrest bail was passed. One of the offers at the time of decision of the application for pre-arrest bail was to get the marriage dissolved on payment of Rs.7 lacs to the complainant which was not acceptable. There are allegations of private respondents having received jewellery item and cash as mentioned in the FIR.

The petition for cancellation of pre-arrest bail granted to respondent Nos.2 & 3, is accordingly allowed.

Since respondent No.3 is an aged lady, facing trial, after having been granted the concession of bail, she in view of her status is exempted from the condition of payment of sum of Rs.2 lacs. The condition is revoked qua respondent No.3.

It will be open to the trial Court to consider the claim of respondent No.3 under Section 439 Cr.P.C., irrespective of any observations made by this Court.

In the interest of justice, an opportunity is granted to respondent No.2 Tehal Singh to pay the sum of Rs.2 lacs on 9.1.2016 by depositing bank draft in the name of Rajwinder Kaur petitioner before the trial Court. In case the amount is not paid, he

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can be arrested after 9.1.2016.

Nothing mentioned in this order will prejudice the rights of respondent No.2 to seek concession of regular bail.

December 22, 2015.
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(M.M.S. BEDI)
JUDGE