

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

**Crl. Misc. No.M-43682 of 2014 (O&M)  
Date of decision: 07.05.2015**

**Ananya Thakur**

**.....Petitioner(s)**

**Versus**

**Arvind Thakur and another**

**...Respondent(s)**

**CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY**

Present: Mr. H.S. Bhullar, Advocate  
for the petitioner.

Mr. Sudesh Sahi, Advocate  
for respondent no.1.

Mr. Sukant Gupta, Advocate  
for respondent no.2-U.T. Chandigarh.

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**ANITA CHAUDHRY, J.**

This is a petition filed under Section 439(2) read with Section 482 Cr.P.C. seeking cancellation of the bail allowed to respondent no.1 by the Addl. Sessions Judge, Chandigarh.

The facts first, Ananya Thakur filed a complaint saying that she got married to Yogesh Kumar and had filed a protection petition apprehending danger which was allowed on 18.05.2012. The marriage did not work. The complainant alleged harassment, abuse in that marriage and contacted Arvind Thakur whose name she had read in the newspapers. She contacted him as he was helping women in distress. The allegations are that she reached the Chandigarh Bus Stand and met the accused in a hotel for discussions. The accused offered to drop her at the bus stand but on

the way offered to leave her at Ramgarh, in his vehicle. On the way, the car was stopped near the Chandigarh Courts and the accused went inside for some work and returned and made her sit in another vehicle and they proceeded towards Naraingarh but instead took the petitioner to Ram Darbar. Subsequently on great persuasion, she started working with accused. On 23.07.2013 the accused put vermilion on her forehead and promised to keep her as his wife. The allegations are that the accused had kept her with him knowing that he was not legally married to the complainant. Allegations of rape were levelled in the complaint filed in the Court.

Notice was issued to the accused who approached the Court with an application seeking anticipatory bail. The application was allowed on 10.12.2014 by the Additional Sessions Judge-cum-Special Court, Chandigarh. The petitioner now seeks cancellation of the anticipatory bail on the ground that the Additional Sessions Judge, Chandigarh while passing the order failed to pass a speaking order and the gravity of offence was not taken into consideration. One more ground was taken that the accused was misusing the Courts and had filed false cases.

The submission made on behalf of the petitioner was that the Court had to consider the gravity and the nature of the offence and serious allegations were made against the accused which were not considered and no case for anticipatory bail was made out and the bail be cancelled. Reliance was placed upon ***Prakash Kadam and etc. Vs. Ramprasad Vishwanath Gupta and another 2011(3) RCR (Crl.)*** and ***Hazari Lal Das Vs. State of West Bengal and another AIR 2010 SC***

The submission on the other hand was that the application should have been filed in the Court which had granted bail and bail can be cancelled only when there is any violation of any condition imposed upon the accused or where there is misuser, which is not the case here.

I have perused the order and the documents available on record. The accused was summoned in a complaint case. The respondent had moved an application for anticipatory which was allowed by the Additional Sessions Judge after noting the arguments and the allegations. It was noted that the complainant had suppressed some material from the Court i.e. she had filed a petition under Section 12 of the Domestic Violence Act and also a petition under Section 125 Cr.P.C. wherein the complainant claimed herself as wife of the accused. It was also noted that the complainant had filed a complaint with the Bar Council of Punjab and Haryana where she referred herself as the wife of the petitioner.

**Section 439(2) provides as under:-**

*The High Court or Court of session may direct that any person who has been released on bail under this chapter be arrested and commit him to custody.*

**In *Dolat Ram and others Vs. State of Haryana (1995) 1***

**SCC 349** the Hon'ble Apex Court held as under:-

*“Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere*

*with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non-bailable case in the first instance and the cancellation of bail already granted.*

To make out a case for cancellation, the petitioner was required to show that there has been an interference or attempt to interfere with the due course of administration of justice. No such record has been made available. It also does not appear from the record that the concession granted to respondent no.1 had been abused in any manner. No supervening circumstances have surfaced justifying cancellation of anticipatory bail. The Additional Sessions Judge while granting anticipatory bail had considered all the circumstances while allowing bail.

Since no cogent or overwhelming circumstances have been placed before the Court, therefore, no case for cancellation of bail is made out.

The petition is dismissed.

07.05.2015

sunil

**(ANITA CHAUDHRY)**  
**JUDGE**