

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

**CRM No. M-4590 of 2015
DECIDED ON: AUGUST 03, 2015**

RISAL SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH.

- 1. Whether Reporters of local papers may be allowed to see the judgment?***
- 2. To be referred to the Reporters or not?***
- 3. Whether the judgment should be reported in the Digest?***

Present: Mr. Rakesh Nehra, Advocate
 for the petitioner.

Mr. D.R. Singla, DAG, Haryana.

Mr. Anshuman Dalal, Advocate
for respondent No.2.

Mr. Ramesh Malik, Advocate
for respondent No.3.

JASPAL SINGH, J

This is a second petition preferred under Section 439 (2) Cr.P.C. seeking cancellation of regular bail granted to respondents No.2 and 3 by learned Sessions Judge, Rohtak vide orders dated July 17, 2014 and July 31, 2014, respectively (Annexures P-3 and P-4) in case FIR No. 151 dated May 31, 2014 under Section 306 read with 34 IPC, Police Station Urban Estate, Rohtak, Distt. Rohtak.

2. Shortly, put the case of prosecution is that respondent No.2 was having illicit relations with respondent No.3 and respondent No.3 had threatened the deceased Gautam to download the porn photographs and video of his wife on

internet and both of them would defame him as well as his family members in the society at large. They also created such circumstances that ultimately Gautam put an end to his life and committed suicide alongwith her minor daughter Khushi.

3. Learned counsel for the petitioner has contended that since the registration of FIR, police is trying to help respondents No.2 and 3 and is not investigating the matter properly in order to leave loop holes in the investigation so that respondents No.2 and 3 rather may get an advantage of improper investigation and both of them may got scot free, despite the fact that they are responsible for pressurizing threatening and creating circumstances for the deceased Gautam to take the step of committing suicide and that too alongwith her minor daughter Khushi. The petitioner has been criticizing the improper investigation conducted by the police but no action was taken for impartial investigation and ultimately, respondents No.2 and 3 have been granted the concession of bail. Thereafter, under the garb of regular bail respondents No.2 and 3 are openly threatening the petitioner side with dire consequences and have openly challenged the petitioner not to come to the Court to depose against them, otherwise, he as well as his family members would be eliminated. Petitioner is under severe threat at the hands of respondents No.2 and 3. He even unable to go outside all alone as his life has become more miserable after untimely death of his son and grand-daughter due to bad character and irresponsible behaviour of respondent No.2. An application dated January 29, 2015 has also been moved to SHO, Police Station Rohtak in respect of threats being extended by respondents No.2 and 3. Even, no action has been taken on the said application by the police. While concluding his arguments, learned counsel for the petitioner has submitted that bail granted to respondents No.2 and 3 is liable to be cancelled and they are

required to be taken into custody.

4. On the other hand learned State counsel assisted by learned counsel for respondents No.2 and 3 have strongly opposed the submissions made by learned counsel for the petitioner that respondents No.2 and 3 were granted the concession of bail after taking into consideration the entire material available on file. They have never misused the concession of bail. Rather, they have been cooperating with the police in the investigation. The allegations levelled by petitioner with regard to conduct and extending threats to him are absolutely wrong. Application dated January 29, 2015 is nothing but has been lodged just to create a ground for moving the instant petition for cancellation of bail. They have never evaded due course of justice or abuse the concession of bail granted to them in any manner. Accordingly, they prayed for dismissal of instant petition.

5. This Court has given an anxious thought to the submissions made by learned counsel for the parties and have perused the record available on file.

6. Undisputably, the rejection of bail is non-bailable case at the initial stage and the cancellation of bail already granted has to be considered and dealt with on different footings. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail, already granted. The ground for cancellation of bail broadly are interference or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of court, on the basis of material placed on record of the possibility of accused absconding may also be one of the reason justifying the cancellation of bail. However, bail once granted is not to 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.

7. Adverting to the facts of the case in hand the main allegation of the petitioner in the instant petition challenging the orders whereby, respondents No.2 and 3 have been granted the concession of bail, is that police is not investigating the case properly and is leaving loop holes so that respondents No.2 and 3 may get relief and go scot free and another ground for cancellation of bail made out by the petitioner is that respondents No.2 and 3 are extending threats to his life as well as to the lives of his family members in case he dared to depose against them. All these allegations are not sufficient for the cancellation of bail. Rather, there is no reason justifying the cancellation of bail put forth by the petitioner. Application dated January 29, 2015 appears to have been moved just for making a ground for filing the instant application. Seriousness of the offence, for cancellation of bail is not a relevant factor for rejecting the bail in a non-bailable case or for cancellation of bail already granted. Thus, this Court is of the considered view that there is no perversity or illegality in the impugned orders and no cogent or overwhelming reasons are made out for cancellation of bail.

8. Accordingly, instant petition is dismissed.

AUGUST 03, 2015
SHAM

(JASPAL SINGH)
JUDGE