

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-4616 of 2015

Date of Decision: February 13, 2015

Vidya Wanti

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

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

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Present:- Mr.K.B. Raheja, Advocate
for the petitioner.

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

Petitioner claimed that she had been duped by Manohar Lal, her son, alongwith others and the property was fraudulently transferred. She got registered an FIR in the year 2009. Manohar and other accused were found innocent. Petitioner opted to file a protest petition. The protest petition was heard and respondents No.2 and 3 were summoned and were granted bail.

Through instant petition, the petitioner seeks cancellation of the bail contending that the application for pre-arrest bail filed by respondents No.2 and 3 had earlier been dismissed by the High Court.

I have considered the facts and circumstances of the case. No doubt, the application for pre-arrest bail of the private respondents was dismissed by this Court but in view of subsequent cancellation report having not been accepted, the respondents having later on been summoned as accused, grant of bail in such circumstances, does not appear to be an illegality. Even otherwise, respondents No.2 and 3 are the grand sons of the petitioner. It does not appear to be a case where during the pendency of the trial the private respondents should be kept behind the bars.

Counsel for the petitioner places reliance on **Ram Ekbal Rai Vs. State of Bihar and others**, 2014 (2) PLJR 219 and **Manish Goyal Vs. State of Punjab**, 2011 (7) RCR (Crl.) 1006, in support of his contention that once the application for anticipatory bail has been dismissed by higher Court, the lower Court cannot grant the said relief.

I have considered the judgments cited by counsel for the petitioner and I am of the opinion that the application for pre-arrest to the grand sons of the petitioner had been dismissed by the High Court in a case of alleged impersonation. The cancellation report submitted by the prosecution agency in accordance with law will be a circumstance which would disentitle any authority to keep an accused in custody as per provisions of Section 169 Cr.P.C. If the accused cannot be kept in custody after cancellation report, the grant of pre-arrest bail in said circumstance does not appear to be an illegality.

I have also considered the contention of learned counsel for the petitioner that the dismissal of application for cancellation will revert the arm of the clock back and will put the accused in the same position where they stood before the presentation of cancellation report. I do not find any force in the said contention.

Counsel has further argued that the accused had given an undertaking that they would revert the rights back. He has also argued that the cancellation report has been prepared by the police on wrong premises on recording that Tehsildar had made a statement that the petitioner had actually appeared before him.

After considering contentions of learned counsel for the petitioner, I am of the opinion that it is not a case of cancellation of bail but at the most a case where the petitioner can claim her rights of property which was allegedly got transferred by the accused in a fraudulent manner by establishing the fraud in accordance with law. If any undertaking had been given by the private respondents regarding transfer, other alternative remedies are available for getting the title again.

Dismissed.

February 13, 2015
sanjay

(M.M.S.BEDI)
JUDGE