

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No. 10225 of 2016

Date of decision: 15.07.2016

Shramistha Raj Singh

... Petitioner

VS.

State of Haryana & another

... Respondents

CORAM : HON'BLE MRS. JUSTICE ANITA CHAUDHRY

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. Sandeep Goyal, Advocate for the petitioner

Mr. Apoorav Garg, DAG Haryana

* * *

ANITA CHAUDHRY, J.(ORAL)

The petitioner is seeking cancellation of anticipatory bail allowed to respondent No. 2 in FIR No. 11 dated 01.02.2016 under Sections 323, 376, 498-A IPC registered at Women Police Station, Faridabad.

Shramistha Raj Singh was married to Gaurav Anand in April 2014 and the FIR was registered against the husband, his parents and sister-in-law. The complainant had made allegations of demand of dowry and harassment. The trial Court allowed anticipatory bail to the husband on 15.03.2016.

Learned counsel for the petitioner contends that anticipatory bail had been allowed to the petitioner even though recovery had not been effected, therefore, the bail should be cancelled.

It is necessary to refer to two decisions of the Supreme Court i.e ***Delhi Administration Vs. Sanjay Gandhi AIR 1978 SC 961 and Raghubir and another Vs. State of Bihar AIR 1987 SC 149***, which deals with the grounds on which bail can be cancelled under Section 439(3) Cr. P. C. In Sanjay Gandhi's (supra) case it was held that rejection of bail is one thing and cancellation of bail already granted is quite another.

Cancellation of bail necessarily involves review of a decision already made and can be large be permitted only if by reasons of supervening circumstances, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during trial.

In *Raghubir Singh's* case (supra) it was held that the grounds for cancellation under Section 437(5) and 439(2) are identical, namely, bail granted under Section 437(1) or (2) or Section 439(1) can be cancelled where: (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation, (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation, (v) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency and (vii) attempts to place himself beyond the reach of his surety, etc. It was held that rejection of bail stood on one footing but cancellation of bail was a harsh order as it interfered with liberty of the individual and could not be lightly resorted to. The petition is dismissed.

There is nothing on record or mentioned by Investigating Officer to the Court to suggest that the accused had not cooperated with the investigation or had hampered in any way.

In my opinion, non recovery of the articles is not a valid ground for cancellation of bail. It is a matter of trial and it will have to be proved as to how much dowry was given and in whose custody the same were. The petition is dismissed as not maintainable.

July 15, 2016
reena

(ANITA CHAUDHRY)
JUDGE