

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. M-15012 of 2016

Date of Decision: 14.9.2016

Dharambir

.....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. S.S.Momi, Advocate
for the petitioner.

ANITA CHAUDHRY, J(ORAL)

Case is taken up today as 13.9.2016 was declared holiday.

This petition has been filed by the petitioner under Section 439(2) Cr.P.C. seeking cancellation of bail allowed to respondent No. 2 in FIR No. 452 dated 5.9.2015 registered at Police Station Sadar, Sonipat under Sections 306, 34 IPC passed by the Additional Sessions Judge, Sonapat.

Counsel for the petitioner contends that there were sufficient allegations against respondent No. 2 and the Additional Sessions Judge had granted bail despite the fact that the allegations were of grave nature and without considering that it was a crime against woman. The allegations against respondent No. 2 were that she had gone to the school and had insulted the girl.

A copy of the order dated 25.5.2016 has been placed on file which shows that Hardeep @ Hunny son of respondent No. 2 had been

allowed regular bail.

Hardeep and the deceased were neighbours. Deceased Deepika had gone on a school trip. The allegations against Hardeep were that he had gone separately to the picnic spot and had clicked some pictures. Deepika returned from the picnic and told her family about the acts committed by Hardeep. Deepika's mother went and complained to respondent No. 2. Respondent No. 2 is alleged to have gone to the school and insulted the girl in the school. The allegations are that on account of embarrassment the girl committed suicide at her home. A suicide note was also handed over to the police. Allegations were levelled that the boy used to blackmail her and she was left with no option but to die. Order dated 25.5.2016 shows that in the bail allowed to Hardeep it had been alleged that another note was left by the deceased with Hardeep that her parents had forced her to write something and she had written against her will.

The suicide note had been sent for FSL. A mobile phone was recovered but no objectionable pictures were found.

In '***Damandeep Kaur Gill versus State of Punjab and another*** **2016(3), R.C.R. (Criminal) 1097**', this Court has held as under:-

“7. Cancellation of bail necessarily involves review of a decision already made and can by 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.

*8. In **Raghubir Singh's** case (supra) it was held that the grounds for cancellation under **Sections 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) there is likelihood of his fleeing to another country, (vi) 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 the liberty of the individual and could not be lightly resorted to.”

The petitioner is seeking cancellation of bail on the ground that the allegations were serious and keeping the gravity into the mind, the bail should not have been allowed. There are no supervening circumstances. There are no allegations that respondent No. 2 has threatened the witnesses. The State counsel also affirms that no complaint had been received from the complainant side.

The petition is dismissed as not maintainable.

(ANITA CHAUDHRY)
JUDGE

September 14, 2016
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No