

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

**CRM-M No.17669 of 2016
Date of decision:16.09.2016**

Harpreet Kaur

... Petitioner

Vs.

State of Punjab & Anr.

... Respondents

CORAM : HON'BLE MRS. JUSTICE ANITA CHAUDHRY

* * *

Present : Mr. Mandeep Singh Sachdev, Advocate
for petitioner.

ANITA CHAUDHRY, J.(ORAL)

Petitioner is seeking cancellation of bail granted to respondent No.2 vide order dated 28.03.2016 in FIR No. 67 dated 02.11.2015, registered under Sections 406/498-A IPC at Police Station Women Cell Jalandhar, District Jalandhar.

The counsel refers to the judgments *Puran Vs Rambilas 2001(5) BCR 830 & Sarita Vs. State of Rajasthan 2011(1) Crl. L.R. 353* and urges that the Investigating Officer had made a statement in the Court that gold ornaments and other dowry articles were yet to be recovered, but the Court made the interim order absolute. It was urged that since an undertaking had been given by Jagjeet Singh that there would return all the gift items, therefore bail should not have been allowed to respondent No.2.

Perusal of Annexure P-2 shows that the undertaking is said to have been given by Jagjit Singh father of Charanpreet Singh on behalf of the son. The trial Court directed respondent No.2 to join the investigation. He had joined the investigation subsequently and pursuant to the interim order, some recovery was

also effected which is noted in Para 3 of the order. Thereafter, the Court below

relying upon two judgments **Bhupinder Singh Vs. State of Punjab 2014 (2) RCR (Criminal) 109 & Anil Rajput and others Vs. State of Haryana, 2010(6) RCR (Criminal), 1126** made the order absolute.

Learned counsel for the petitioner contends that since an undertaking had been given on behalf of respondent No.2 and recovery was not effected, bail should not have been allowed and it 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 Raghbir 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 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 ***Raghbir 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.

Nothing has been placed on record by the petitioners to suggest that the accused had not cooperated with the investigation or had hampered it 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.

(ANITA CHAUDHRY)
JUDGE

16.09. 2016
rimpal

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No