

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No. M-19870 of 2016

Date of Decision: 28.07.2016

Gulshan Raj Kakkar

...Petitioner(s)

Versus

State of Punjab & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Vishal Gupta, Advocate
for the petitioner.

HARI PAL VERMA J.(Oral)

Petitioner – Gulshan Raj Kakkar son of Tarlok Chand, resident of H.No.134, Urban Estate, Phase-II, Jalandhar has filed the instant petition under Section 482 read with Section 439(2) Cr.P.C. seeking cancellation of anticipatory bail granted to respondent no.2 - Nidhi Kakkar by the learned Additional Sessions Judge, Jalandhar, vide order dated 17.9.2015 (Annexure P-5) in case FIR No.59 dated 16.4.2010 under Sections 451, 323, 34 of the Indian Penal Code, 1860.

Respondent no.2 - Nidhi Kakkar had approached learned Additional Sessions Judge, Jalandhar by way of an application under Section 438 CrPC for grant of anticipatory bail, which application was allowed and the petitioner was granted the concession of anticipatory bail, for the reasons recorded in order dated 17.9.2015 (Annexure P-5).

Aggrieved from the order dated 17.9.2015, the petitioner moved an application for cancellation of anticipatory bail granted to respondent no.2 on the ground that she has failed to disclose her visit to abroad, but the said application was also dismissed by learned Additional Sessions Judge, Jalandhar vide order dated 31.3.2016.

It is in these circumstances, the petitioner has filed the instant petition seeking cancellation of anticipatory bail granted to respondent no.2.

Learned counsel for the petitioner has argued that respondent no.2 has concealed the order dated 19.8.2015, wherein on her failure to produce the medical record, the exemption granted to her from personal appearance was declined and she was summoned through non-bailable warrants for 10.9.2015. Learned counsel further argued that despite there being a case against respondent no.2, she is repeatedly going abroad without any permission from the Court. Therefore, the anticipatory bail granted to respondent no.2. be cancelled.

I have heard learned counsel for the petitioner.

The order dated 17.9.2015 (Annexure P-5) is a well reasoned order. Non-appearance of respondent no.2 on 27.7.2015 was on account of fracture in her right leg and right tibia. Learned Additional Sessions Judge has duly taken into consideration this fact, which was otherwise substantiated by medical record. Accordingly, after considering all the facts and circumstances of the case, respondent no.2 was granted anticipatory bail. Moreover, the offences under Sections 451, 323, 34 IPC are not so serious which may restrict her visit to go abroad. It has come on record that

respondent no.2 has never tried to temper with the prosecution evidence or induce or influence the prosecution witnesses or tried to delay the proceedings, as the prosecution witnesses have been examined in her absence. Therefore, no prejudice has been caused to the petitioner.

Thus, no ground is made out for cancellation of bail granted to respondent no.2.

The petition is dismissed.

July 28, 2016
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No