

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. M-20202 of 2016

Date of Decision: 18.10.2016

Sushma

.....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Vipin Kumar Sharma, Advocate
for the petitioner.

ANITA CHAUDHRY, J(ORAL)

This is the petition seeking cancellation of bail granted to respondents No. 2 and 3 namely father-in-law and mother-in-law.

I have heard the counsel for the petitioner at great length.

Counsel for the petitioner submits that anticipatory bail had wrongly been allowed to respondents No. 2 and 3 and the police was yet to recover the gold ornaments and respondents No. 2 and 3 after getting bail had started giving threats to the petitioner and to their family members and she was beaten up.

The counsel was asked to refer to the specific date on which the beating was given or when the threats were extended. The petitioner does not have the details. Admittedly, challan has been presented. No complaint has been given to the police or to the trial Court. The grounds for cancellation of bail are entirely different. The concession once granted cannot be cancelled on the grounds which are not even *prima facie* substantiated.

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 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. No complaint was given to the police regarding the threats. It has not been pleaded as to how the threats were extended. It is a

matter of trial and it will have to be proved as to how much dowry was given. The petition is dismissed as not maintainable.

(ANITA CHAUDHRY)
JUDGE

October 18, 2016
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No