

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

CRM-M-44184 of 2016.
Decided on:-12.12.2016.

Divya Bhasin.

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

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

Present:- Mr. Vineet Chaudhary, Advocate
for the petitioner.

HARI PAL VERMA, J.

Petitioner-complainant Divya Bhasin daughter of Jasbir Kaur Bhasin and wife of late Ashok Bhasin, resident of House No.282, Housing Board Colony, Naraingarh Road, Ambala City has filed present petition under Section 439(2) Cr.PC seeking cancellation of pre-arrest bail granted to respondent No.2-accused Vyom Dinesh Sharma vide order dated 17.09.2016 passed by learned Additional Sessions Judge, SAS Nagar, Mohali.

An FIR No.135 dated 10.08.2016 under Sections 420, 465, 467, 468 and 471 IPC as well as Section 66-D of the Information Technology Act, 2000 was registered against the respondent No.2-accused at Police Station Phase-I, Mohali (Annexure P-4) at the behest of one Rajender Saxena, Senior Head, P&GA, Semi Conductor Laboratory, Department of Space, Government of India, Sector 72, SAS Nagar.

The aforesaid FIR was registered against respondent No.2-accused on the allegation that an RTI application was received at Semi Conductor Laboratory, SAS Nagar (Mohali) moved by one Anil Kumar of Gurgaon, seeking information of an employee, namely, Divya Bhasin i.e. the petitioner herein, about her joining, leaves and transfers etc. The said information was declined being personal in nature. Thereafter, another application was moved about other similarly placed employee for seeking information. However, the said application was also declined. But when the authorities of Semi Conductor Laboratory had contacted said Anil Kumar, it was found that said Anil Kumar never sought any information. The petitioner has stated to her Officer that she has an apprehension that the information has been wrongly sought by respondent No.2, with whom she is having dispute. He has used a fake e.mail I.D. of said Anil Kumar so as to seek information. The respondent No.2 is posted as Traffic Manager in Department of Transportation, Chandigarh from where the computer has been used for sending such e.mail, whereas Anil Kumar is resident of District Gurgaon.

Since the respondent No.2 was arrayed as an accused in the above FIR, apprehending his arrest, he had approached the Court of Session, SAS Nagar, Mohali to seek anticipatory bail and vide order dated 17.09.2016 passed by learned Additional Sessions Judge, SAS Nagar, Mohali, his application was disposed of and he was granted interim anticipatory bail on the terms and conditions as provided under Section

438(2) Cr.P.C.

Learned counsel for the petitioner has argued that the respondent No.2-accused has been granted interim anticipatory bail without considering the background, facts and circumstances of the case. The investigating officer has never served any notice to the department or complainant or even the present petitioner, who is an aggrieved person. The respondent-accused was admitted on anticipatory bail on the basis of false, malafide and self-concocted and fabricated pleas ignoring the legal position. The police is under political influence of respondent-accused, who is an HCS officer and thus, helping him. The accused has been admitted on bail without appreciating the fact that the Inspector General of Police, State Cyber Crime Cell, SAS Nagar has sought information from the Legal Cell, GOOGLE, USA. The fact that already a case bearing FIR No.122 dated 01.05.2015 under Sections 406, 420 and 506 IPC as well as Sections 3 and 4 of the Dowry Prohibition Act registered at Police Station, Baldev Nagar, Ambala against the respondent No.2 is pending before the trial Court at Ambala is sufficient to disentitle the respondent to seek anticipatory bail in this case.

Learned counsel for the petitioner has relied upon judgment of this Court in ***Subhash Chander Versus State of Haryana and another 2010(4) RCR (Criminal) 856*** to contend that the Courts are required to keep in mind certain guidelines while dealing with an application for grant of anticipatory bail and since the respondent-accused has not approached

learned Additional Sessions Judge with clean hands, he was not entitled to be admitted on anticipatory bail.

I have heard learned counsel for the petitioner.

This Court cannot ignore the fact that a matrimonial dispute is already pending between the petitioner and respondent No.2. The offence alleged in the FIR in question are triable by Magistrate. Learned Additional Sessions Judge has considered the plea as raised by the petitioner at the time of granting interim anticipatory bail to respondent No.2. The pendency of a matrimonial dispute i.e. FIR No.122 dated 01.05.2015 under Sections 406, 420 and 506 IPC as well as Sections 3 and 4 of the Dowry Prohibition Act registered at Police Station, Baldev Nagar, Ambala is one of the relevant factor to admit the respondent No.2 on anticipatory bail.

In ***Subhash Chander's case (supra)***, it has been observed by this Court that once bail has been granted in a non bailable case, ordinarily the same is not to be cancelled by superior Courts on the same material and the same can be cancelled, in case there are very cogent and overwhelming circumstances existing for an order directing cancellation of bail already granted. The relevant para No.15 of the said judgment reads as under:

*“15. There is no dispute regarding legal preposition as held by Hon'ble Apex Court in **Savitri Agarwal v. State of Maharashtra 2009(3) RCR (Criminal) 792**, on which reliance has been placed on behalf of respondent no.2 that once bail has been granted in a non bailable case, ordinarily the same is not to be cancelled by superior courts on the same material and however, the same can be cancelled, if there are very cogent and*

overwhelming circumstances existing for an order directing cancellation of bail already granted.”

Since no such material has been brought to the notice of this Court showing the existence of cogent and overwhelming circumstances for cancellation of interim anticipatory bail of respondent No.2, the judgment cited by learned counsel for the petitioner in ***Subhash Chander's case (supra)*** is not applicable to the facts and circumstances of this case.

In view of the above, this Court does not find any illegality in the impugned order dated 17.09.2016 passed by learned Additional Sessions Judge, SAS Nagar, Mohali whereby respondent No.2-accused has been granted interim anticipatory bail.

The present petition is, accordingly, dismissed.

December 12, 2016

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No