

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

Crl. Misc. No.M-5891 of 2016 (O&M)

Date of decision : 14.09.2016

Sonia Jangra

.....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Rajesh Sethi, Advocate
for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

Mr. Shubham Jain, Advocate for
Mr. Gaurav Mohunta, Advocate
for respondents no.2 & 3.

ANITA CHAUDHRY, J.

Case taken up today as 13.09.2016 was declared holiday.

Service is complete. Power of attorney on behalf of respondents
no.2 & 3 filed.

The petitioner is seeking cancellation of anticipatory bail
allowed to the private respondents.

The counsel for the petitioner was asked to submit his
arguments with respect to the maintainability of the petition. The counsel
urges that interim bail was allowed by the trial Court and the accused were
asked to join the investigation and adverse report was given that no
recovery had been effected and even the academic certificates were not
recovered and still the trial Court had allowed anticipatory bail. The counsel

urges that the gold articles were not recovered.

The complainant was married to respondent no.2 - Gautam Kumar in February, 2014. One week after the marriage her husband left for Pune where he was working. After three weeks the complainant joined her husband at Pune. Few months later, the husband was transferred to Jaipur. The in-laws are residing in Sirsa. The complainant had lastly visited the in-laws on 18.01.2015. The FIR was lodged on 08.12.2015.

The main submission of the counsel is that since recovery had not been effected bail should be cancelled.

On the other hand, the counsel appearing for the private respondents states that once bail has been granted, it can only be cancelled on the grounds mentioned in Section 439(2) Cr.P.C.

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.

In ***Raghubir Singh Vs. State of Bihar, AIR 1987 SC 149*** 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.

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.

The petitioner seeks cancellation of bail on the ground that the dowry articles/jewellery and the academic certificates were not recovered. In my opinion, non-recovery of 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 what dowry was given and in whose custody the certificates lastly were.

The petition is dismissed being not maintainable.

14.09.2016

Sunil

**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No