

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

CRM-M-18129 of 2017

Date of decision :08.08.2017

Balwinder Kaur

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MRS. JUSTICE LISA GILL

Present: Mr.Arvind Kashyap, Advocate
for the petitioner.

LISA GILL, J. (Oral)

Prayer in this petition is for cancellation of anticipatory bail afforded to respondent no.2 by the learned Additional Sessions Judge, Gurdaspur vide order dated 01.05.2017 (Annexure P-1) in FIR No. 136 of 20.09.2015, under Sections 363, 366-A, 120-B IPC (added later on 376 IPC and 6 of Protection of Children from Sexual Offence Act, 2012) (for short-POCSO Act'), registered at Police Station Civil Lines Batala, District Gurdaspur, as well as for the arrest of respondents no. 3 and 4 in accordance with law.

The following order was passed by this Court on 20.07.2017:-

“Prayer in this petition is for cancellation of anticipatory bail granted to respondent No.2 in FIR No.136 dated 20th September, 2015 registered under Sections 363, 366-A, 120-B IPC (added later on 376 IPC and 6 of the Protection of Children from Sexual offence Act, 2012 at

Police Station Civil Lines Batala, District Gurdaspur with a further prayer to arrest respondents No.3 and 4 in accordance with law.

It is not in dispute that respondents No.2 was afforded the benefit of bail by this Court on 30th November, 2016 after taking note of the fact that the statement of the prosecutrix has already been recorded. Respondents No.3 and 4 have also been afforded the benefit of bail. Prima facie there does not appear to be any ground for cancellation of the bail granted to the said respondents.

Learned counsel for the petitioner prays for time to seek instructions.

On request, adjourned to 8th August, 2017.”

Learned counsel for the petitioner has reiterated the arguments addressed earlier. It is submitted that after the addition of offence punishable under Section 376 and Section 6 of 'POCSO Act', respondents no.3 and 4 have not even sought the concession of bail. Thus, it is prayed that this petition be allowed.

Heard learned counsel for the petitioner at length.

Learned counsel for the petitioner is unable to point out any ground which calls for cancellation of bail afforded to respondents no.2 to 4. There is no averment or allegations that the said respondents have in any manner misused the concession of bail.

It has been held by the Hon'ble Supreme Court in **Manjit Prakash & Ors. Vs. Shobha Devi & Anr. 2008 (3) R.C.R. (Criminal) 768** that grant of bail to an accused at the initial stage and the cancellation of bail stand on different footings. Cancellation of bail is a harsh order because it interferes with the liberty of the individual and should not be resorted to lightly. Similarly, the Hon'ble Supreme Court in **Savitri Agarwal & Ors. Vs. State of Maharashtra & Anr. 2009 (3) R.C.R (Criminal) 792**

observed that very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail already granted.

As noted earlier, respondent no.2 was afforded the benefit of bail by this Court on 30.11.2016 after taking note of the fact that the statement of the prosecutrix has been recorded. In this view of the matter, there is no infirmity or illegality in the impugned order dated 01.05.2017 passed by the learned Additional Sessions Judge, Gurdaspur. Learned counsel is unable to point out any over-whelming or cogent circumstances which call for cancellation of bail afforded to the said respondents.

Consequently, finding no merits, this petition is dismissed. Needless to say that in case, there is any violation of the terms and conditions of the bail granted to respondents no. 2 to 4, the petitioner is at liberty to take appropriate steps seeking cancellation of bail. .

08.08.2017

s.khan

**(LISA GILL)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No