

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

CRM-M-18664-2017

Date of decision: 11.10.2017

Leena Kakkar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr.Aditya Dassaur, Advocate for the petitioner

Mrs.Anju Arora, Addl.AG, Punjab

Mr.CS Jattana, Advocate for respondent Nos. 2 to 4

JITENDRA CHAUHAN, J.

By filing the present petition under Section 439 (2) of the Code of Criminal Procedure, the petitioner has sought cancellation of anticipatory bail granted to respondent Nos.2 to 4 by learned Additional Sessions Judge, Fatehgarh Sahib vide order dated 26.7.2016 (Annexures P4 and P5), in case First Information Report No. 73 dated 13.4.2016, registered under Sections 323, 342, 498A, 406 of the Indian Penal Code at Police Station Gobindgarh Mandi, District Fatehgarh Sahib.

It is contended that when parents of the petitioner were on the way to attend the proceedings before the concerned SHO,

they were waylaid and injuries were inflicted on them. Learned counsel further contends that the petitioner has filed a complaint in the matter with regard to the incident. He refers to the MLR (Annexure P-12) dated 17.10.2016 and the proceedings (Annexures P-8 and P9) initiated by the competent authorities.

On the other hand, the learned State counsel, on instructions, states that after investigation, the assertions raised by the petitioner have been found to be false by the concerned authorities and no case for registration of the FIR was made out.

The learned counsel for respondent Nos.2 to 4 opposes the prayer made and states that there is nothing on record to justify the assertions of the petitioner. He further submits that the said respondents have been discharged in the proceedings initiated vide Annexures P9 and P10.

I have heard learned counsel for the parties and perused the record.

In ***Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Anr., 2004 (2) R.C.R.(Criminal) 254: 2004 (7) SCC 528***, Hon'ble the Supreme Court held as under:-

“11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of

the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstance, the following factors also before granting bail; they are:

- (a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.*
- (b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.*
- (c) Prima facie satisfaction of the court in support of the charge.”*

A three-member Bench of this Court in **State (Delhi Administration) Vs. Sanjay Gandhi 1978 (2) SCC 411** made the following elemental distinction in defining the nature of exercise while cancelling bail:

“Rejection of bail when bail is applied for is one thing; cancellation of bail already granted is quite another, it is easier to reject a bail application in a nonbailable case than to cancel a bail already granted in such a case. Cancellation of bail necessarily involves the review of a decision already made and can by and large be permitted only if, by reason of supervening circumstances, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during the trial.”

In the instant case, nothing has been brought on record to substantiate the fact that respondent Nos.2 to 4 are misusing the

concession of bail granted to them.

In Dolat Ram and others Vs. State of Haryana, JT 1995(1) S.C. 127, it has been held that the bail granted to the accused should not be cancelled in a mechanical manner. There is no dispute with regard to the proposition of law as laid down by Hon'ble the Supreme Court. The consideration for the cancellation of bail are totally different than the one for granting the bail. Such considerations should be weighty and strong, leaning towards the prosecution and the injuries suffered by the aggrieved party. There is no report of any kind of misuse the concession of bail granted to the said respondents from the prosecution side. The ground on which the petitioner has sought cancellation of bail is that respondent Nos. 2 and 4 on 17.10.2016 had attacked the parents of the petitioner when her parents had refused to accede to the pressure of respondent Nos. 2 to 4 for getting FIR No.73 cancelled. No corroborative material or circumstance has been brought to the notice of this Court, which could be a ground to cancel the bail. In the circumstances, no case for interference is made out at this stage.

Dismissed.

11.10.2017
gsv

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No