

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

**CRM-M-20636-2017
Date of decision-16.08.2017**

Prem Lata Kapoor

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Atul Lakhanpal, Senior Advocate with
Mr. Arjun Lakhanpal, Advocate for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

This petition has been filed under Section 439(2) Cr.P.C. read with Section 482 Cr.P.C. for cancellation of anticipatory bail granted to respondent No.2 vide order dated 16.11.2016 (Annexure P-3) passed by this Court in FIR No.913 dated 16.11.2015 registered under Sections 147, 323, 452, 506, 427, 448, 511, 120-B, 395 and 397 read with Section 149 of Indian Penal Code (in short 'IPC') and Section 25 of the Arms Act at Police Station Model Town, Panipat.

It is contended that after getting relief of anticipatory bail from this Court, respondent No.2 is threatening the petitioner and his family. Learned counsel for the petitioner further contends that custodial interrogation of respondent No.2 is necessary.

I have heard learned counsel for the petitioner 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 Hon'ble the Supreme Court in *State (Delhi Administration) V. 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 non-bailable 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, there is no evidence regarding petitioner being threatened or any other step to dispossess him and nothing has been brought on record to substantiate the fact that respondent No.2 is misusing the concession of bail granted to him vide order dated 16.11.2016, no case for cancellation of bail is made out at this stage.

However, State shall ensure that the petitioner is not dispossessed from his property without taking legal course. It is further directed that as and when any complaint is made by the petitioner for misusing of the concession of bail order dated 16.11.2016, concerned Superintendent of Police shall take immediate action as per law.

Dismissed.

(JITENDRA CHAUHAN)
JUDGE

August 16, 2017

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No