

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

Crl. Misc. M-23455 of 2016 (O&M)
Date of Decision: September 28, 2017

Jagpreet Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Abhyapal Singh Gill, AAG Punjab.

Mr. M.S. Basra, Advocate
for respondent No.2.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 439(2) Cr.P.C. praying for cancellation of regular bail granted to respondent No.2 by the learned Addl. Sessions Judge, Gurdaspur vide order dated 25.05.2016 in FIR No.46 dated 22.09.2015 registered under Sections 302, 304-B, 34 of Indian Penal Code at Police Station Tibber, District Gurdaspur.

In brief, the facts of the case are that an FIR came to be registered at the instance of petitioner herein Jaspreet Singh s/o Kuldeep Singh that a marriage was performed of his sister Jagroop Kaur with Harpreet Singh @ Happy s/o Gurdeep Singh, resident of Village Nangal, Police Station Tibber. At the time of marriage, sufficient *istridhan* was

given as per their financial capacity. From this wedlock, a minor son was born. Thereafter, the sister of the petitioner was pressurized by her husband Harpreet Singh and Rupinder Kaur @ Raj Kaur, mother-in-law to bring cash to the tune of Rs.3 lacs in the month of January, 2014 and on their asking an amount of Rs.2.50 lacs was given to Harpreet Singh. Despite having given the amount, Jagroop Kaur was maltreated and harassed by her in-laws. On 21.09.2015, Jagroop Kaur informed the petitioner that she was being harassed and maltreated by Harpreet Singh and Rupinder Kaur to bring cash from her parents. On 22.09.2015 at about 12.45 a.m. Harpreet Singh made a call from the mobile phone of Jagroop Kaur that Jagroop Kaur is ill whereupon, the petitioner advised that she should be taken to the hospital. The petitioner reached the house of Harpreet Singh the next morning whereupon, both Harpreet Singh and Rupinder Kaur fled away from the spot, leaving behind dead body of Jagroop Kaur. It was stated that Jagroop Kaur had been killed by strangulation. In the report filed under Section 173 Cr.P.C., the name of Rupinder Kaur @ Raj Kaur was kept in column No.2. The matter was committed before the Addl. Sessions Judge, Gurdaspur, for trial where, an application was made under Section 193 Cr.P.C. for taking cognizance against Rupinder Kaur @ Raj Kaur by the State through APP, on account of the fact that there had been specific allegations against Rupinder Kaur @ Raj Kaur in the statement suffered by the petitioner, however, Rupinder Kaur @ Raj Kaur had been declared innocent by the police during enquiry and challan was not presented against her. The learned Addl. Sessions Judge, Gurdaspur, allowed the said application and summoned respondent No.2 to face trial under Section 304-

B, 34 of Indian Penal Code. Thereafter, respondent No.2 approached this court for grant of anticipatory bail and this court by order dated 09.05.2016 disposed of the petition with the directions that in case, respondent No.2 surrenders before the trial court within a period of one week and moves an application for bail, the trial court shall decide the same within a period of one week thereafter. Thereafter, respondent No.2 surrendered before the trial court and she was granted regular bail by the trial court vide order dated 25.05.2016. Aggrieved against the said order granting regular bail to respondent No.2, the instant petition has been filed for cancellation of bail.

Counsel for the petitioner argues that the impugned order has been passed in cryptic manner, without assigning any cogent reason. It is submitted that the trial court has granted the bail only on the ground that minor son left by the deceased is to be taken care of. It is contended that Manjit Kaur, who is sister-in-law of deceased Jagroop Kaur has also given an affidavit that she is ready to take care of the minor child. It is also argued that while granting bail, the trial court has not looked into the nature and gravity of the offence and severity of punishment, therefore, the impugned order is liable to be set aside.

Per contra, learned counsel appearing on behalf of respondent No.2 opposes the instant petition for cancellation of bail, while submitting that the impugned order has been passed after considering all the relevant facts.

I have heard counsel for the parties, apart from perusing the record.

While granting the regular bail to respondent No.2, the learned

trial court has observed that there was a minor boy almost of age 3/3 ½ years born out of the wedlock of deceased and son of respondent No.2 and there is nobody in the family to look after the minor boy. The court also observed that during enquiry, respondent No.2 was exonerated on the ground that on the date of occurrence, she has gone to attend kirtan in Village Jaura Chitran. The court further observed that although, the petitioner has levelled allegations of demand of cash to the tune of Rs.3 lacs from the deceased, yet the truthfulness of the allegations are yet to be proved against respondent No.2.

The question before the Court is as to whether there are prima facie grounds available for cancellation of bail under Section 439 (2) of the Cr.P.C. The parameter for grant of bail and cancellation of bail are entirely different. Bail granted under Section 439(1) of the Cr.P.C can be cancelled where the accused:

1. Misuses his liberty by indulging in similar criminal activity;
2. Interferes with the course of investigation;
3. Attempts to tamper with evidence or witnesses;
4. Threatens witnesses or indulges in similar activities which would hamper smooth investigation;
5. Is likely of fleeing to another country;
6. Attempts to make himself scarce by going underground or becoming unavailable to the investigating agency;
7. Attempts to place himself beyond the reach of his surety etc.

The above list is illustrative and not exhaustive. No such allegations have been levelled against respondent No.2, while seeking cancellation of regular bail granted to her. It is also a settled principle of law that even if there are two views possible, once the bail has been granted, it should not be cancelled.

A reading of the impugned order so passed goes on to show that the trial court has granted the bail, not merely on the ground that respondent No.2 has to look after the minor boy, but had also considered the other aspects. In the instant case, the charges were framed against respondent No.2 and her son by order dated 31.05.2016 and trial is going on.

Keeping in view the facts and circumstances of the present case, no ground is made out to cancel the regular bail, which has been granted to respondent No.2. Accordingly, the petition in hand is hereby dismissed.

September 28, 2017
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No