

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

CRM-M-30391-2017

Date of decision: 1.9.2017

Sandeep Kaur

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr.Sushil Sharma, Advocate for
Mr.Harinder Singh, Advocate for the petitioner

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 No.2 by learned Additional Sessions Judge, Ludhiana, vide order dated 26.7.2017 (Annexure P-3) in case First Information Report No. 53 dated 23.6.2016, registered under Sections 406 & 498A of the Indian Penal Code, at Police Station Sadar Raikot, District Ludhiana.

It is contended that the petitioner is a victim of harassment at the hands of respondent No.2 and his family members. Despite the fact that the dowry articles remain to be recovered, the respondent was allowed anticipatory bail by learned trial Court. In the same set of facts, the bail of the mother-in-law of the complainant was declined by learned trial Court.

I have heard learned counsel for the petitioner and perused

the case file.

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 or 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) 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 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 No.2 is misusing the concession of bail granted to him.

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 is totally different than the one for granting the bail. Such consideration should be weighty and strong, leaning towards the prosecution and the injuries suffered by the aggrieved party. No 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.

Dismissed.

1.9.2017
gsv

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No