

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

CRM No. M-35416 of 2016

Date of Decision: 26.09.2017.

Paramjit Kaur

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Tapish Gupta, Advocate for
Ms. Puja Chopra, Advocate,
for the petitioner.

Mr. AS Gill, Sr. DAG Punjab
assisted by ASI Gurnam Singh.

Mr. Arjunveer Sharma, Advocate,
for respondent No.2.

JITENDRA CHAUHAN.J.(ORAL)

This is a petition under Section 439(2) Cr.P.C for
cancellation of bail granted to respondent No.2 vide order dated
21.07.2016 passed by Additional Sessions Judge, Patiala in case FIR
No.39 dated 31.03.2016 registered under Sections 406 and 498-A IPC
at Police Station Women, District Patiala.

It is contended that the dowry articles are yet to be
recovered but the Court below has exercised its jurisdiction illegally
and by ignoring the grave allegations has granted bail to respondent
No.2.

On the other hand, the learned State counsel, on
instructions, informs that no complaint has been received with regard to

misuse of concession of bail by the petitioner.

The learned counsel for respondent No.2 supports the order passed by the Court below.

Heard.

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 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.”

It is to be noticed that the petitioner/complainant has challenged the initial grant of bail to respondent No.2 on the ground of non-recovery of dowry articles and that the order is bad in law because it ignores the seriousness of the allegations. Respondent No.2 made statement before the Court below that all the dowry articles in his possession had been returned and no other article was in his possession. In this regard, the Court below has observed as under:-

“At this stage, the fact whether the alleged gold ornaments and electronic goods as stated by the complainant are in the custody of bail applicants or not and whether the motor cycle was purchased by the complainant or the applicants themselves is a matter of evidence which would be seen during the trial. The challan in this case is still to be presented and then trial will take its own time.”

Even in **Rajesh Sharma and others Vs. State of**

U.P. and another, Criminal Appeal No.1265 of 2017, decided on

27.07.2017, Hon'ble the Supreme Court has observed that “Recovery of disputed dowry items may not by itself be a ground for denial of bail if maintenance or other rights of wife/minor children can otherwise be protected. Needless to say that in dealing with bail matter, individual roles, prima facie truth of the allegations, requirement of further arrest/custody and interest of justice must be carefully weighed.”

There is no material on record to suggest that the maintenance or other rights of the complainant-wife cannot be otherwise protected. This being so, this Court feels that the Court below has exercised its jurisdiction properly. Otherwise also, there is no complaint with regard to misuse of concession of bail by respondent No.2.

In view of above, the present petition is dismissed.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

26.09.2017.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No