

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

CRM-M-35188-2015 (O&M)

Date of decision : 06.10.2017

Harmanpreet Kaur @ Bani

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Kshitij Sharma, Advocate,
and Mr. Pratham Sethi, Advocate,
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by ASI Jitender Kumar,
and ASI Gurnam Singh.

Ms. Loveleen Dhaliwal, Advocate,
for respondent No.2.

JITENDRA CHAUHAN, J. (Oral)

The instant petition has been filed under Section 437(5) of the Code of Criminal Procedure (for short, 'the Cr.P.C.') for cancellation of bail granted to respondent No.2, in FIR No.59 dated 31.12.2012, registered under Sections 406 and 498-A of the Indian Penal Code (for short, 'the IPC'), at Women Police Station, Patiala.

Contends that after having been released on bail, accused-respondent No.2 has been repeatedly filing frivolous complaints against the complainant-petitioner.

On the other hand, learned State counsel, on instructions, submits that one FIR was registered on behalf of uncle of respondent No.2, however, there is no complaint/application received by the authorities from the complainant or anybody else whereby allegations of misuse of bail order by respondent No.2 have been levelled.

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 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 ***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.

In the instant case, there is nothing on record to substantiate the fact that respondent No.2 is misusing the concession of bail granted to him. In these circumstances, no case for cancellation of bail is made out.

Dismissed.

However, in case, any complaint against accused-respondent No.2 with regard to misuse of bail granted to him is received, the Senior Superintendent of Police concerned is directed to take prompt action thereon, as per law.

06.10.2017
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No