

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

CRM-M-40100-2016 (O&M)

Date of decision : 29.08.2017

Sulochana

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ravi Malik, Advocate,
for Mr. Mohan Singh Rana, Advocate,
for the petitioner.

Ms. Mahima Yashpal, AAG, Haryana.

Mr. Virender, Advocate,
for Mr. S.K. Birla, Advocate,
for respondent No.2.

JITENDRA CHAUHAN, J. (Oral)

The instant petition has been filed under Section 439(2) of the Code of Criminal Procedure (for short, 'the Cr.P.C.') for cancellation of bail granted to respondent No.2, by learned Additional Sessions Judge, Gurgaon, vide order dated 11.07.2016, (Annexure P-2), in FIR No.190 dated 24.05.2016, registered under Sections 367, 452 and 506 of the Indian Penal Code (for short, 'the IPC'), at P.S. Bhondsi, District Gurgaon.

It is contended that respondent No.2, after getting bail from the Court below, tried to kill the petitioner and FIR No.312 dated 27.09.2016

under Sections 341, 452, 509 and 506 IPC (Annexure P-3) stands registered against him. Respondent No.2 and his associates are now threatening the petitioner to withdraw the case.

On the other hand, learned counsel for accused-respondent No.2 contends that after having been released on bail by this Court, the accused has been regularly appearing before the Court. The parties were earlier in a relationship which lasted for about 6-7 years. A child was also born out of the relationship. When the relations between the parties became sour, the petitioner has been filing number of false cases against him. It is further stated that the petitioner is habitual of filing complaints against the accused-respondent. FIR No.312 (*ibid*) has been lodged by the petitioner with an ulterior motive.

Heard.

From the perusal of the case file, it is evident that earlier also, the petitioner had been lodging complaints against the accused-respondent. In FIR No.141 dated 30.05.2013, registered under Sections 367 and 323 IPC, the complainant-petitioner turned hostile, resulting into acquittal of the accused-respondent. Thereafter, the petitioner moved a complaint/application before the Delhi Police alleging rape by the accused-respondent, but compromised the matter by giving a statement in his favour on 17.02.2014. The parties are stated to have been in relationship since 2010. In the circumstances, the conduct of the petitioner does not inspire confidence. Otherwise also, as far as the allegations of threat and harassment are concerned, FIR No.312 (*ibid*) stands already registered against the accused-respondent.

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 the instant case, there is nothing on record to substantiate the fact that respondent Nos.2 to 4 are misusing the concession of bail granted to them.

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 this view of the matter, this Court does not find any ground to accept the prayer made in the instant petition, which merits dismissal.

Ordered accordingly.

However, nothing noticed hereinabove shall be construed as an expression of opinion on the merits of the case.

29.08.2017
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(JITENDRA CHAUHAN)
JUDGE

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