

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

**CRM-M-42741-2017
Date of decision-13.11.2017**

Gurpreet Kaur

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sandeep Arora, Advocate for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

This petition has been filed under Section 439(2) Cr.P.C. read with Section 482 Cr.P.C. for cancellation of anticipatory bail granted to respondent Nos.5 and 6 vide order dated 23.10.2017 (Annexure P-2) passed by learned Addl.Sessions Judge, Jalandhar in FIR No.223 dated 04.10.2017 registered under Sections 354-B and 506 read with Section 34 of Indian Penal Code (in short 'IPC') at Police Station Sadar, Jalandhar.

It is contended that respondent Nos.5 and 6 and their unidentified companions held the petitioner from her arm and removed headgear with the intention to commit mischief and outraged her modesty and abused her openly. Learned counsel for the petitioner further contends that custodial interrogation of respondent Nos.5 and 6 is necessary.

I have heard learned counsel for the petitioner and perused the record.

In **Aslam Babalal Desai Vs. State of Maharashtra, 1993(1)**

R.C.R. (Criminal) 600, Hon'ble the Supreme Court held as under:-

“the grounds for cancellation under Section 437(5) and 439(2) are identical, namely, bail granted under Section 437(1) or (2) or 439 (1) can be cancelled where (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation, (v) there is likelihood of his fleeing to another country, (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency, (vii) attempts to place himself beyond the reach of his surety, etc. These grounds are illustrative and not exhaustive. It must also be remembered that rejection of bail stands on one footing but cancellation of bail is a harsh order because it interferes with the liberty of the individual and hence it must not be lightly resorted to.”

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 non-bailable 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 the police failed to take any action against respondent Nos.5 and 6 or that the bail was granted to them on untenable grounds. No case for cancellation of bail is made out at this stage.

Dismissed.

(JITENDRA CHAUHAN)
JUDGE

13.11.2017
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No