

103 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44169-2017
Date of decision-21.11.2017

Anita

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Parminder Singh, 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 accused/respondent No.2 vide order dated 19.07.2017 (Annexure P-8) passed by Court of learned Additional Sessions Judge, Karnal in FIR No.54 dated 10.05.2017 registered under Sections 323, 406, 498-A, 506 and 494 of Indian Penal Code (in short 'IPC') at Women Police Station, Karnal.

Learned counsel contends that respondent No.2 has mis-stated the facts and secured the order dated 19.07.2017 from the Court below. He further contends that the value of the car and jewellery allegedly given by the petitioner to respondent No.2 has not been paid.

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, learned counsel failed to refer to any circumstance or incident whereby it can be inferred that respondent No.2 has misused the concession of bail. The parameters for grant of bail and

cancellation bail are altogether different. This Court feels that the factual aspects of the matter are to be seen by the trial Court at the appropriate stage when the evidence in this regard is led before the trial Court. Therefore, the Court is not inclined to interfere in the impugned order passed by the Court below.

Dismissed.

(JITENDRA CHAUHAN)
JUDGE

21.11.2017
vanita

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