

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

CRM-M-46344-2016 (O&M)

Date of decision-24.04.2017

Kamaljit Kaur

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Rahul Bhargava, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

Mr. M.S. Hundal, Advocate for
Mr. Loveneet Thakur, Advocate
for respondent Nos.2 and 3.

JITENDRA CHAUHAN, J. (Oral)

CRM-8712-2017

Application is allowed as prayed for.

Annexure R-2/1 is taken on record subject to all just exceptions.

CRM-M-46344-2016

By filing the present petition under Section 439(2) of the Code of Criminal Procedure, the petitioner has sought cancellation of anticipatory bail granted to respondent Nos.2 and 3 vide order dated 27.10.2016 passed in CRM-M-31036-2016 in FIR No.61 dated 10.08.2016 registered under Sections 323, 452 and 148 read with Section 149 of the Indian Penal Code at Police Station Noormehal, Jalandhar Rural.

Learned counsel for the petitioner states that as per order dated 27.10.2016, respondent Nos.2 and 3 were granted anticipatory bail by this Court on the ground that respondent No.2 moved injured/petitioner to

hospital which is factually wrong because sister of the injured/petitioner, took her to the hospital. It is further contended that after their release, respondent No.2 again attacked the petitioner/complainant at her house on 08.09.2016. The petitioner moved a representation to Senior Superintendent of Police, Jalandhar dated 15.10.2016 (Annexure P-4). Thereafter, vide order dated 17.11.2016, a direction was given by this Court to take action on said representation (Annexure P-5).

On the other hand, respondent No.3, Manjit Singh, has left for Canada without taking permission from this Court.

Learned State counsel also admits the factum raised by learned counsel for the petitioner.

I have heard learned counsel for the parties and have gone through the case file.

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

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

“Once the order of release is by fiction of law an order passed under Sections 437(1) or (2) or 439(1) it follows as a natural consequence that the said order can be cancelled under Sub-section (5) of Section 437 or Sub-section (2) of Section 439 on considerations relevant for cancellation of an order thereunder. As stated in Raghubir Singh's case the grounds for cancellation under Sections 437(5) and 439(2) are identical, namely, bail granted under Sections 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.”

In the instant case, respondent No.2 has hoodwinked the Court by stating wrong facts and then misused the concession granted to him on 08.09.2016 by attacking and threatening the complainant/petitioner at her house. Furthermore, respondent No.3 has breached the condition granting bail by leaving the country without taking permission from this Court.

In view of the above, bail granted to respondent Nos.2 and 3 vide order dated 27.10.2016 stands cancelled and bail bonds, if any, furnished by respondent Nos.2 and 3 stand forfeited to the State.

A copy of this order be sent to the Chief Judicial Magistrate concerned for compliance.

(JITENDRA CHAUHAN)
JUDGE

April 24, 2017

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