

**201-A IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-4712-2016
Date of decision-26.09.2017**

Kudrat Sehgal

...Petitioner

Vs.

Bharat Bhushan Sehgal and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. S.S.Sodhi, Advocate for the petitioner.

Mr. Gautam Dutt and Mr. Shiv Kumar, Advocates
for respondent Nos.1 and 2.

Ms. Mahima Yashpal, AAG, Haryana.

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.1 and 2 vide order dated 07.12.2015 (Annexure P-9) passed by learned Additional Sessions Judge, Faridabad in FIR No.22 dated 28.09.2015 registered under Sections 354-A (1), 498-A and 406 read with Section 34 of Indian Penal Code (in short 'IPC') at Police Station, Women Cell, Sector-16, Faridabad.

It is contended that after getting relief of anticipatory bail, respondent Nos.1 and 2 are threatening and abusing the petitioner and her minor child. Learned counsel for the petitioner further contends that custodial interrogation of respondent Nos.1 and 2 is necessary.

However, the learned counsel for the State as well as the respondent Nos.1 and 2 controvert the same.

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

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 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, there is no evidence regarding petitioner being threatened or any other step to dispossess her and nothing has been brought on record to substantiate the fact that respondent Nos.1 and 2 are misusing the concession of bail granted to them vide order dated 07.12.2015, no case for cancellation of bail is made out at this stage.

Dismissed.

(JITENDRA CHAUHAN)
JUDGE

September 26, 2017

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