

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

CRM-M-10856-2018 (O&M)
Date of decision : 10.08.2018

Preeti

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. M.R. Sharma, Advocates,
for the petitioner.

Mr. S.K. Saini, AAG, Haryana.

Mr. Vikas Kumar, Advocate,
for respondent No.2.

JITENDRA CHAUHAN, J. (Oral)

The instant petition has been preferred under Section 439(2) of the Code of Criminal Procedure (for short, 'the Cr.P.C.') read with Section 482 Cr.P.C., for cancellation of anticipatory bail granted by this Court in CRM-M-13285-2017, to respondent No.2 in FIR No.54 dated 04.04.2017, registered under Sections 341, 354A, 376 and 506 of the Indian Penal Code, at P.S. City Women Cell, Faridabad.

Vide order dated 24.05.2018, the petitioner was directed to place on record the copies of complaints moved after 19.11.2017 on the basis of which FIR No.24 dated 10.01.2018 (Annexure P-3), was registered.

It is to be noticed that the petitioner is sister-in-law of respondent No.2. The dispute with regard to certain jewellery and other heirloom is pending between the sisters, i.e. the petitioner and wife of respondent No.2. Beyond the two FIRs registered at the behest of the

No.2-petitioner in CRM-M-13285-2017.

Grant of bail and cancellation thereof are governed by different parameters altogether. 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 *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 the instant case, there is nothing on record to suggest that respondent No.2 has ever misused the concession of bail granted to him. Mere bald assertions made by the petitioner with regard to threat, harassment and undue pressure exerted by respondent No.2 upon the petitioner have remained unsubstantiated. The Court feels that the allegations levelled by the petitioner against respondent No.2 in the instant petition are clearly motivated.

In view of the above, no case for cancellation of bail is made out, at this stage.

Dismissed.

10.08.2018
atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No