

In the High Court of Punjab and Haryana at Chandigarh

Crl. Misc. No. M-34036 of 2018

Date of Decision: 09.8.2018

Payal

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. S.P.Soi, Advocate
for the petitioner.

ANITA CHAUDHRY, J

This is a petition filed under Section 439 (2) Cr.P.C. seeking cancellation of anticipatory bail allowed by the Additional Sessions Judge, Patiala on the plea that the concerned Court failed to consider the statement given by the petitioner under Section 164 Cr.P.C., the compromises entered earlier and deciding the application without notice to her and without considering the fact that Section 376 IPC had been added.

Counsel for the petitioner contends that the FIR was registered but the complainant's statement was not recorded and thereafter supplementary statement was recorded which the Court failed to notice while allowing anticipatory bail. Counsel refers to the order dated 17.7.2018. The counsel further states that additionally the petitioner has been getting threats after the bail was allowed to respondent No. 2.

The petitioner is seeking cancellation of bail on several grounds primarily that the Court ignored the supplementary statement which I find is wrong. The order vide which anticipatory bail was made absolute was

passed on 17.7.2018 which refers to the detailed order which was passed on 4.7.2018. In the order dated 4.7.2018, the Court had referred to the FIR as well as the supplementary statement made on 20.6.2018. It also noticed the fact that it was after interim relief was granted then the complainant alleged that she had been raped as earlier she had stated that she had lived with the accused as his wife for two years. The Court noticed the fact that Section 376 IPC has been added subsequently. Therefore, the argument sought to be made on behalf of the petitioner that the Court had ignored those facts have to be rejected.

So far as the notice to the complainant is concerned, that was not required as notice was given to the State as is usually done. With respect to the last submissions regarding the threat being extended to the petitioner after the bail was granted, I find that those are vague and do not give any details as to the time and date on which threat was extended.

Section 439 (2) provides as under:-

The High Court or Court of Session may direct that any person who has been released on bail under this chapter be arrested and commit him to custody.

In ***Dolat Ram and others Vs. State of Haryana (1995) 1 SCC 349*** the Hon'ble Apex Court held as under:-

“Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of

justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non-bailable case in the first instance and the cancellation of bail already granted.

The petitioner has been unable to make out a case for cancellation of bail. There is nothing on record which can show that the accused had interfered or attempted to interfere with the due course of administration of justice.

No case for cancellation of bail is made out. The petition is dismissed in *limine*.

(ANITA CHAUDHRY)
JUDGE

August 09, 2018
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No