

Criminal Misc. No.M-4346-2019

Date of Decision: 29.08.2019

Jinderpal

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. K.S.Dargan, Advocate
for Mr. B.S.Bhalla, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr.Siddharth Gupta, Advocate
for respondents No. 2 and 3.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439(2) of the Code of Criminal Procedure, 1973 is for cancellation of anticipatory bail granted to respondents No. 2 and 3 in case FIR No.08 dated 11.12.2018, under Sections 406/498-A IPC, registered at Police Station NRI Moga.

Learned counsel for the petitioner has argued that daughter of the petitioner was mentally and physically tortured by the respondents No.2 and 3 as well as their son. There were repeated demands for dowry at the instance of respondents No.2 and 3. He states that during the course of hearing of anticipatory bail application filed by respondents No.2 and 3, Head Constable Nachhatar Singh had made a specific statement that though respondents No.2 and 3 have joined the investigation but recovery of dowry articles is yet to be effected from them and sought direction to respondents

No.2 and 3 to cooperate with the investigation in recovery of dowry articles. However, still learned Additional Sessions Judge, Moga admit them on bail vide order dated 18.01.2019.

Learned counsel for the respondents No.2 and 3 states that petitioner is a complainant, whose daughter Komal Kora was married with Arvinder Singh, son of respondents No.2 and 3. Both Komal Kora and Arvinder Singh are residing in Australia. The parties would ultimately be governed by the outcome of trial. Hence no case for cancellation of bail is made out.

I have heard learned Counsel for the parties.

Hon'ble Apex Court in **Dolat Ram and others Vs. State of Haryana**, (1995) 1 SCC 349 has held that the bail granted to the accused should not be cancelled in a mechanical manner. The observation made by the Hon'ble Apex Court in **Dolat Ram's** case (*supra*) reads 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.”

There is no dispute with regard to the proposition of law as laid down by Hon'ble the Supreme Court. The considerations for the cancellation of bail are totally different than the one for granting the bail. Such considerations should be weighty and strong, leaning towards the prosecution and the injuries suffered by the aggrieved party.

No material or circumstance has been brought to the notice of this Court, which could be a ground to cancel the bail. There is no allegation that respondents No.2 and 3 have influenced the process of the Court or intimidated the petitioner.

In the circumstances, no case for interference is made out.

Dismissed.

**(HARI PAL VERMA)
JUDGE**

29.08.2019

sunita

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No