

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-29701 of 2018

Date of Decision: 24 July, 2019

Komal

.....Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Pankaj Bali, Advocate
for the petitioner.

Mr. Baljinder Virk, DAG, Haryana.

Mr. Saurabh Dalal, Advocate
for the respondent No. 2.

FATEH DEEP SINGH, J. (Oral)

The petitioner/complainant has sought through this petition under Section 439(2) of the Cr.P.C., the cancellation of the order dated 31.05.2018 granting anticipatory bail to accused/respondent No.2 passed by the Court of learned Special Judge-cum-Additional Sessions Judge, Rohtak in FIR No. 246 dated 05.05.2018 under Sections 323, 377(2)(n) and 506 IPC, Police Station Shivaji Colony, Rohtak. The primary grounds that have come about in this petition are that the accused/respondent No.2 is trying to threaten

complainant-Komal by circulating her nude photographs and has sought to have reveal to the text messages extended between them and further that petitioner/complainant was assaulted twice and on 4th July 2018, she was hospitalized with injuries given by two unknown persons and as a consequence of which, another FIR No. 193 dated 05.07.2018 under Sections 195-A, 323, 34 and 506 IPC was got registered at P.G.I.M.S. Rohtak and, thus, accused/respondent No.2 has misused the concession of order of bail granted which needs to be recalled.

The State in its reply has claimed that the accused has joined the investigations and as a consequence of which was released on bail rather the prosecution has denied the plea that the accused/respondent No.2 has not fully corroborated with the investigations in not providing with the alleged obscene photographs so alleged to have been collected by him though accepts that FIR in question was subsequently registered to the first FIR but denied the allegations of the petitioner/complainant.

Appreciating the arguments of Mr. Bali, learned counsel for the petitioner, Mr. Baljinder Virk, DAG, Haryana and Mr. Saurabh Dalal, Advocate, learned counsel for respondent No.2 and perused the records. As is there in the first case, the accused was allowed anticipatory bail on 31.05.2018 and when as per the allegations of the present complainant/petitioner, the subsequent occurrence has taken place on 04th July, 2017 and nothing concrete could be shown to this

Court that why these pleas were not taken at the time of grant of anticipatory bail and which order is sought to be recalled. As is reflected from the pleadings, the complainant/petitioner and the accused appear to be in a relationship and which subsequently went sour leading to claims and counter-claims and which is also reflected from the SMS messages produced on the record.

Counsel for the complainant/petitioner Mr. Bali could not convince this Court how these messages are subsequent to the bail orders or comes in the way of fair investigation and trial. Though, on behalf of the complainant/petitioner, reliance is sought to be placed on **Aslam Babalal Desai Vs. State of Maharashtra, 1993(3) BCR 166**, where their Lordships delving on this aspect of cancellation of bail have held that for cancellation of bail earlier granted to the accused strong prima facie evidence ought to be there.

Counsel for the complainant/petitioner could not convince how the conduct of the accused after his release is either detrimental to the fair investigation or to the trial as nothing concrete could be brought to the notice of this Court. The Courts are supposed to be very extra conscious against such tactics of a party to deny the opposition a legitimate right to justice. The alleged incident in which the second FIR has come about is against two unknown persons and the counsel for the complainant/petitioner could not bear out how the same is related with the accused in this case. What one could gather from the stands of the two sides and the arguments made, there is no justifiable

and reasonable ground to accede to the petitioner and rather is an over
owing tactics and which Court needs to be discouraged.

Finding no merits, the present petition is dismissed.

July 24, 2019
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No