

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

CRM-M-21630 of 2019.

Decided on:- September 27, 2019.

Anita Aggarwal.

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

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

Present:- Mr. Pawan Singh, Advocate for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

Dr. Anand Kumar Bishnoi, Advocate for respondent No.2.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 439(2) Cr.P.C. is for cancellation of regular bail granted to respondent No.2 by learned Additional Sessions Judge, Gurugram vide order dated 06.03.2019 passed in the case bearing FIR No.766 dated 30.11.2018 under Section 506 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Palam Vihar, Gurugram, District Gurugram.

Learned counsel for the petitioner has argued that after grant of regular bail to respondent No.2, he is threatening the petitioner to withdraw the case, otherwise, he will ruin his family for which the matter was reported to the SHO, Police Station Palam Vihar, Gurugram on 07.04.2019 (Annexure P-4). Similarly, another complaint was addressed to the Commissioner of Police, Gurugram on 26.04.2019 (Annexure P-5) and then to the SHO, DLF, Phase-11, Gurugram on 01.05.2019 (Annexure P-6).

Pursuant to the order date 20.08.2019 passed by this Court, ACP Brahm Singh is present in Court. He has submitted that there is no such threat to the petitioner. However, in case the petitioner feels so, they are ready to provide protection to her on the date when she is to be examined before the trial Court.

Learned counsel for respondent No.2-accused has produced copy of order dated 17.09.2019 passed by learned Additional Sessions Judge, Gurugram. The said order shows that no PW was present and an application for exemption from personal appearance of the complainant was sought and the Court has observed that the victim is intentionally avoiding to appear in Court and, therefore, the application for exemption was dismissed. Now, the victim has been summoned through bailable warrant in the sum of Rs.10,000/- for 25.11.2019. PWs at Sr. No.3, 4 and 10 were also ordered to be summoned for 25.11.2019.

Having heard learned counsel for the parties, this Court finds that so far as prayer of the petitioner for cancellation of regular bail granted to respondent No.2 is concerned, the same cannot be accepted in view of the law laid down in ***Dolat Ram and others Versus State of Haryana (1995) 1 SCC 349***, wherein Hon'ble Apex Court has observed 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.”

However, as regard the protection of the petitioner so as to enable her to depose before the trial Court is concerned, ACP Brahm Singh, who is present in Court, is directed to extend necessary protection to the petitioner-complainant, the victim or any other prosecution witness, who apprehends threat, on the relevant date of their examination before the trial Court.

The present petition is, accordingly, disposed of.

(HARI PAL VERMA)
JUDGE

September 27, 2019
Yag Dutt

Whether speaking/reasoned:	Yes
Whether Reportable:	No