

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-37261-2019

Date of decision: 05.09.2019

Gunjan

...Petitioner

Versus

State of Haryana and another

...Respondents

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

Present: Mr. Manish Soni, Advocate  
for the petitioner (s).

**HARI PAL VERMA, J. (Oral)**

Prayer in the present petition filed under section 482 read with section 439(2) of the Code of Criminal Procedure is for setting aside the impugned order dated 06.07.2019 (Annexure P-5) whereby the application filed by the petitioner-complainant for cancellation of bail granted to respondent No.2 has been dismissed. Prayer has also been made for setting aside the order dated 29.12.2018 (Annexure P-2) passed by Ld. Additional Sessions Judge Gurugram vide which the respondent No.2 has been admitted on anticipatory bail in case FIR No. 154 dated 22.12.2018 under sections 498-A/406/506/377/323/120B of IPC registered at Women West Police Station, Sector 15, Gurugram alongwith order dated 18.02.2019 (Annexure P-6) passed by learned Judicial Magistrate Gurgaon whereby after presentation of challan, bail bond of respondent No.2 has been

accepted.

Learned counsel for the petitioner has argued that the impugned order granting the concession of bail to the respondent No.2, in a heinous crime i.e. commission of unnatural sex and cruelty with the petitioner-complainant is completely bereft of any reasoning and has been passed without considering the well settled principles of law. He states that after getting interim-anticipatory bail, though the respondent-accused initially joined the investigation on few occasions but thereafter despite the fact that the accused has been repeatedly called upon through notices, he did not come present to join the investigation. Still recovery of some expensive articles and jewelry worth lakhs of rupees is yet to be made from the respondent-accused.

Heard.

The aforesaid FIR was registered at the behest of petitioner-Gunjan, with the averments that her marriage was solemnized with respondent No.2 on 08.12.2016 as per Hindu Rites and Ceremonies. There are allegations regarding acts of cruelty, beating and demands of dowry in the FIR.

Vide order dated 29.12.2018, learned Additional Sessions Judge, Gurugram granted anticipatory bail to the respondent No.2. The petitioner filed an application under Section 439(2) Cr.P.C. for cancellation of his bail, however, said application was dismissed by the learned Additional Sessions Judge vide order dated 06.07.2019 with the following observations:-

*“8. After hearing the submissions from both the sides and going through the record of the case, this court is of the considered view that in the present case the moot point for discussion is regarding the return of the dowry articles and it*

*has been contended by the petitioner-complainant that the dowry articles are still in the possession of the accused whereas the accused has contended that the same have been returned. Challan in the present case has been filed, therefore, the investigation stands concluded and in such circumstances it becomes a matter of appreciation of evidence regarding recoveries which have been effected and which are left to be effected. At this stage it can not be said without appreciating any evidence as to whether any such dowry articles has been withheld by the accused and there is nothing on the record to suggest that there has been any threat which has been extended by the accused either directly or indirectly or to show any other condition of the bail has been misused by him. No useful purpose would be served by detention of accused into custody as investigation already stands concluded. In such circumstances the application for cancellation of bail stands dismissed. File be consigned to record room after due compliance.”*

Hon’ble Apex Court in **Dolat Ram and others Vs. State of Haryana**, (1995) 1 SCC 349 has been 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 consideration 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. Moreover, investigation in the present FIR are already complete and challan has been present. There is no allegation that respondent No.2 has influenced the process of the Court.

Accordingly, no case for interference is made out.

Dismissed.

**(HARI PAL VERMA)**  
**JUDGE**

05.09.2019

SEEMA

|                            |        |
|----------------------------|--------|
| Whether speaking/reasoned? | Yes/No |
| Whether reportable?        | Yes/No |