

111.

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

CRM-M-40818-2019

Date of decision: 23.09.2019

LIYAQAT ALI

.... Petitioner

versus

STATE OF HARYANA AND ANOTHER

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Bhavdeep Singh Mamli, Advocate,
for the petitioner.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439(2) of Cr.P.C. is for cancellation of anticipatory bail granted to respondent No.2- Jaibinder Singh @ Tinku vide order dated 27.08.2019 (Annexure P-3) passed by the learned Additional Sessions Judge (Exclusive Court for Heinous Crimes against Women and Children) Yamuna Nagar at Jagadhri, in case FIR No.98, dated 17.07.2019 registered under Sections 363, 366-A of IPC and Section 4 of POCSO Act, 2012 at Police Station Chhachhrauli, District Yamuna Nagar.

The aforesaid FIR was registered at the behest of petitioner, who is father of the victim, against respondent No.2-accused with the allegation that on 16/17.07.2019, he must have been taken away his daughter on the pretext of marriage.

Respondent No.2 approached the court of learned Additional Sessions Judge (Exclusive Court for heinous crimes against Women and Children) Yamuna Nagar at Jagadhri for grant of anticipatory bail and accordingly, vide order dated 27.08.2019, he was granted anticipatory bail, however, with the terms and conditions as laid down under Section 438(2) of Cr.P.C.

Aggrieved against the order of grant of anticipatory bail to respondent No.2, the petitioner has approached this Court through the instant petition with the allegation that respondent No.2 is threatening the family members of the petitioner. His daughter was minor, she was kidnapped and heinous crime was committed upon her by respondent No.2.

Hon'ble Apex Court in ***Dolat Ram and others Versus 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 Apex 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.

Accordingly, no case for interference is made out.

Dismissed.

(HARI PAL VERMA)
JUDGE

23.09.2019

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