

103.

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

CRM-M-53052-2019

Date of decision: 13.12.2019

RAJNI

.... Petitioner

versus

ARVIND KUMAR AND ANR

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Kuldip Singh, 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 bail granted to respondent No.1, namely, Arvind Kumar, vide order dated 16.07.2019 passed by the learned Additional Sessions Judge (Exclusive Court for Heinous Crime against Women), Kurukshetra, in case FIR No.220, dated 30.06.2019 registered under Sections 323/406/498-A/506 of IPC at Police Station Ladwa, District Kurukshetra.

The aforesaid FIR was registered at the behest of petitioner. As per the FIR, she got married with Arvind Kumar on 04.12.2011. No child was born from this marriage. Due to which, all the accused (in-laws) kept cursing, abusing and sometimes gave beatings to her. She was asked to take divorce from her husband, so that they may solemnize his second marriage. The accused used to ask the petitioner that if she wants to live in the matrimonial home, she would have to bring i-20 car. On 29.05.2018, she was ousted from the matrimonial house after giving beatings. A panchayat

was convened on 27.08.2018, wherein it was decided to take divorce by mutual consent. The accused agreed to pay Rs.3,60,000/-. Out of which, Rs.1,80,000/- was to be given on the first date of hearing in the court and the said amount was to be kept with the panchayat, whereas the remaining amount of Rs.1,80,000/- was to be given on the second motion stage. Accordingly, divorce petition was filed under Section 13-B of Hindu Marriage Act and Rs.1,80,000/- were given to the panchayat after recording first motion statement. The second motion was fixed by the court for 05.03.2019. On 05.03.2019, her husband stopped her outside the court and on the false assurance of taking her to the matrimonial house, she gave a joint statement in the court for withdrawal of divorce petition. Her husband also took back the amount of Rs.1,80,000/- from the panchayat. Her husband assured to take her to the matrimonial home within one week, but he did not come to take her to the matrimonial home.

Respondent No.1 approached the court of learned Additional Sessions Judge (Exclusive Court for Heinous Crime against Women), Kurukshetra for grant of anticipatory bail and accordingly, vide order dated 16.07.2019, he was granted anticipatory bail.

Aggrieved against the order of grant of anticipatory bail to respondent No.1, the petitioner-complainant has approached this Court through the instant petition.

I have heard counsel for the petitioner and perused the case file.

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

Dismissed.

(HARI PAL VERMA)
JUDGE

13.12.2019
sanjeev

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