

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

CRM-M-50986 of 2019.

Decided on:- March 03, 2020.

Harpreet Kaur.

.....Petitioner.

Versus

State of Punjab and another

.....Respondents.

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

Present:- Mr. Rajesh Gupta, Advocate
for the petitioner.

Ms. Ruchika Sabharwal, A.A.G., Punjab.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 439(2) Cr.P.C. is for cancellation of anticipatory bail granted to respondent No.2 vide order dated 11.10.2019 passed by learned Additional Sessions Judge, Ludhiana in FIR No.98 dated 01.07.2019 under Sections 406 and 498-A IPC registered at Police Station Women Cell, Ludhiana.

Learned counsel for the petitioner has argued that while granting bail to the respondent No.2, learned Additional Sessions Judge, Ludhiana has failed to appreciate the fact that the recovery of dowry articles was yet to be effected from the respondent No.2. Even otherwise, after getting bail, the respondent No.2 is threatening the petitioner that in case she will not withdraw her complaint, he will get her and her family members killed by

hiring contract killers. In this manner, the respondent No.2 has violated the conditions imposed by learned Additional Sessions Judge, Ludhiana while affording him the concession of bail and for this reason, bail granted to respondent No.2 deserves to be cancelled.

He has further contended that the respondent No.2 had filed a petition under Section 9 of the Hindu Marriage Act, 1955 (for short, the Act) for restitution of conjugal rights, but when the petitioner filed an application under Section 24 of the Act for grant of maintenance *pendente lite* in the said petition, the respondent No.2 had withdrawn the petition under Section 9 of the Act, which is sufficient to prove that the only purpose of respondent No.2 is to harass the petitioner by whatever means. However, the petitioner has also filed a petition under Section 9 of the Act against the respondent No.2 for restitution of conjugal rights.

Learned State counsel, on instructions from ASI Vipin Kumar, submits that after completion of investigation, Challan has been presented in the aforesaid F.I.R.

I have heard learned counsel for the parties.

The present is a matrimonial dispute between the parties. Initially, the respondent No.2-husband had filed a petition under Section 9 of the Act, however, when the petitioner filed an application under Section 24 of the Act, he had withdrawn the same and now, it is the petitioner, who has filed a petition against respondent No.2 under Section 9 of the Act. Moreover,

investigation in the FIR has already been completed and Challan has been presented in the case.

In ***Dolat Ram and others Versus State of Haryana (1995) 1 SCC 349***, Hon'ble Supreme 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.”

Considering the fact that after completion of investigation, Challan has already been presented in the case and in view of the law laid down in ***Dolat Ram and others' case (supra)***, this Court finds that the prayer

for cancellation of anticipatory bail granted to respondent No.2 cannot be accepted.

The present petition is, accordingly, dismissed.

March 03, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No