

104.

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

CRM-M-26-2020

Date of decision: 07.01.2020

MAINA DEVI

.... Petitioner

versus

STATE OF PUNJAB AND ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Amrinder Singh and Ms. Preeti Manderna, Advocates,
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 respondents No.2 to 4, namely, Gaurav Sethi, Ajay Kumar and Manpreet Kaur respectively, vide orders dated 16.07.2019 & 25.07.2019 (Annexures P-2 & P-3) passed by the learned Additional Sessions Judge, Fazilka, in case FIR No.0023, dated 19.06.2019 registered under Sections 306, 34 of IPC at Police Station GRP Abohar.

The aforesaid FIR was registered at the behest of petitioner (mother of the victim) against respondents No.2 to 4. As per the FIR, the petitioner was married twice and have four children. From the earlier husband (since deceased), she has two children, namely, Kusum and Puneet and from the second husband, she has two daughters. Kusum (since deceased) was a student of R.S.L.D.C. in S.N. Nursing College and was undergoing 8 months nursing course. There were vacations in the college

from 01.06.2019 to 17.06.2019, however, she was informed telephonically that the college is going to reopen from 11.06.2019. Accordingly, she reached there on 11.06.2019. On 15.06.2019, Kusum made a call to her mother that the atmosphere in hostel staff is not good and she has been harassed. Thereafter, on the same day at about 9:30 PM, the petitioner-complainant received a call from one Ranjit Bhullar as to whether Kusum had reached home, however, she did not reach home. On 16.06.2019, the petitioner again made a call to Ranjit Bhullar asking him the whereabouts of her daughter, to which, he replied that Kusum had gone from the college and further stated that she might have gone to meet some girl. On 17.06.2019, Kusum made a call to the petitioner informing her that she was in the hostel and would come back home the next morning. Thereafter, on 18.06.2019, the petitioner again received a call from Kusum when she was crying loudly and on enquiry, Kusum informed her mother that she has been expelled from the college without any reason or fault of her. Kusum further informed that she has been humiliated by respondents No.2 to 4 by using derogatory words against her dignity, which led to her committing suicide by jumping from train.

Respondents No.2 to 4 approached the court of learned Additional Sessions Judge, Fazilka for grant of anticipatory bail and accordingly, vide orders dated 16.07.2019 and 25.07.2019, they were granted anticipatory bail.

Aggrieved against the order of grant of anticipatory bail to respondents No.2 to 4, 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

07.01.2020
sanjeev

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