

113 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9838-2021
Date of Decision: 03.03.2021

SARABJIT KAUR

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: Hon'ble Mr.Justice Deepak Sibal

Present: Mr.Rajeshwar Singh Thakur, Advocate for the petitioner
Mr.Ramandeep Sandhu, Sr.D.A.G. Punjab

Deepak Sibal, J. (Oral)

Case taken up through Video Conferencing.

The present petition has been filed under Section 438 (2) Cr.P.C. for cancellation of anticipatory bail granted by the Trial Court to respondent No.2 in FIR 35 dated 20.04.2020 registered under Sections 406, 498-A IPC at police station Women, District Ludhiana.

The petitioner filed a complaint with the police as per which respondent No.2 had treated her with cruelty and had also demanded, received and misappropriated dowry articles given by her family members at the time of their marriage. On the basis of such complaint the aforesaid FIR was registered.

Respondent No.2 applied for anticipatory bail before the Trial Court in which, after notice, the investigating officer filed a reply that respondent No.2's plea for bail be rejected on the ground that 210 grams of gold and Rs.15 lakhs cash are still to be recovered from him. The Trial

Court considered and rejected the State's plea and granted anticipatory bail to respondent No.2 after specifically holding that respondent No.2 had shown his bona fide by getting recovered substantial dowry articles.

The petitioner then filed a petition before this Court being CRM-M-13549-2020 – Sarabjit Kaur vs. State of Punjab and others seeking therein cancellation of respondent No.2's bail which petition of hers was permitted to be withdrawn by this Court on 24.08.2020 after giving her liberty to avail of her remedy before the Trial Court.

As per liberty granted by this Court the petitioner approached the Trial Court for cancellation of respondent No.2's anticipatory bail on the ground that 210 grams of gold and Rs.15 lakhs in cash were still to be recovered from respondent No.2.

The petitioner's application was dismissed by the Trial Court on the ground that respondent No.2 had already got recovered wrist watches, a Honda City car, gold rings, diamond ring, gold Kitty set, gold polki set, LED TV, ladies clothes, shoes etc. and since substantial Istridhan articles had been got recovered by respondent No.2 his bail was not liable to be cancelled.

Reiterating the submissions made on behalf of the petitioner before the Trial Court, learned counsel for the petitioner contends that respondent No.2's anticipatory bail is liable to be cancelled on the ground that 210 grams of gold and Rs.15 lakhs in cash is still required to be recovered from him.

Respondent No.2 has specifically denied receipt of the aforesaid 210 grams of gold and Rs.15 lakhs in cash from the petitioner's family. In the light of the such denial, the truth, if any, in such allegations

would be deciphered only after the trial. At this stage, only on the basis of a bald assertion made on behalf of the petitioner respondent No.2's anticipatory bail cannot be ordered to be cancelled especially in view of the unassailed findings returned by the Trial Court that respondent No.2 has already shown his bona fide by getting recovered the admitted articles of dowry as also because there is not even an allegation made in the present petition or even raised before this Court that after the grant of anticipatory bail respondent No.2 has misused such concession in any manner whatsoever.

At this juncture it would be useful to refer to the following paragraph of a recent judgment of this Court dated 20.07.2020 passed in CRM-M-19579-2020- Naresh Kumar vs. UT Chandigarh and others:-

“Rejection of bail in non-bailable offence(s) at the initial stage and cancellation of bail already granted are required to be dealt distinctly. The considerations which may weigh with the Court to cancel the bail already granted are if the accused has tampered with the evidence or influenced witnesses, has interfered in the course of administration of justice or has evaded or attempted to evade the due course of justice or in any manner has abused the concession of bail granted to him. Bail may also be cancelled if the order granting the bail suffers from serious infirmities resulting in miscarriage of justice and if the Court while granting bail has ignored the relevant material on record or has taken into account irrelevant material. These considerations are again inclusive and not exhaustive. The primary object behind cancellation of bail is to ensure a fair trial which is threatened by aforesaid acts of an accused who is set at liberty through the order granting him bail.” (emphasis supplied)

In view of the above discussion on facts and the settled position

of law no merit is found in the instant petition.

Dismissed.

It is clarified that the above observations have been made by this Court to decide the present petition seeking cancellation of anticipatory bail in which investigation is still going on and therefore these observations be not construed as opinion on the merits of the case.

03.03.2021

gk

(Deepak Sibal)
Judge

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No