

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

**CRM-M-35708-2021
Date of decision-01.09.2021**

Anju

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rajnikant Upadhyay, Advocate for the petitioner.

MANOJ BAJAJ, J.

Anju-complainant has approached this Court for cancellation of anticipatory bail granted to respondent No.2, namely, Ajay Duggal vide order dated 19.04.2021 in case FIR No.417 dated 02.08.2019 registered under Sections 376 (2) (n), 406, 420 and 494 of Indian Penal Code, 1860 at Police Station Sadar Hisar, District Hisar.

Learned counsel for the petitioner contends that respondent No.2 is accused of commission of serious offence punishable under Sections 376 (2) (n), 406, 420 and 494 IPC and the extra ordinary concession of pre arrest bail granted to him vide order dated 19.04.2021 (Annexure P-5) deserves to be cancelled. He submits that the place of occurrence has not been identified by the accused, therefore, his custodial interrogation may be necessary.

During the course of hearing, it is not disputed by learned counsel that as per the allegations in the FIR, the alleged offence of rape was committed on 22.04.2018 and FIR was lodged on 02.08.2019. Besides, the

complainant had been visiting different places with accused including the hotel where the same offence was allegedly again committed. As per the stand of the complainant, she had solemnized marriage with the accused on 27.03.2019 and they stayed together for quite some time.

After considering the above background, this Court had extended the concession of interim anticipatory bail to the accused vide order dated 17.02.2020 and after his joining the investigation, learned State counsel on instructions from L/ASI Usha stated that the accused is not required for custodial interrogation.

Apart from it, the issue of custodial interrogation of an accused can be raised by the State and the complainant or her counsel can assist the State counsel in order to oppose the prayer. The requirement of custodial interrogation would always depend upon the facts and circumstances of each case, therefore, the said ground is not enough for exercising the jurisdiction under Section 439 (2) Cr.P.C. Besides the order dated 19.04.2021 was passed on merits and in case the petitioner feels that this Court has erroneously granted the concession of anticipatory bail to the accused, the remedy to challenge the said order would be before the higher Court and not to seek review before the same Court as it would not be maintainable in view of Section 362 Cr.P.C.

Petition is dismissed.

(MANOJ BAJAJ)
JUDGE

01.09.2021

vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No