

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

**CRM-M No. 26540 of 2020 (O&M)
Date of Decision: 06.4.2021**

Mohan Singh

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sanjiv Kumar Yadav, Advocate, for the petitioner.

Mr. Ashok Singh Chaudhary, Addl. A.G., Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

CRM-31043-2020

This is an application for placing on record Annexures P-29 and P-30.

The application is allowed as prayed for. Annexures P-29 and P-30 are taken on record.

CRM-M No. 26540 of 2020 (O&M)

This is petition under Section 439(2) Cr.P.C. for cancellation of regular bail granted to respondent No. 2 by Additional Sessions Judge, Bhiwani, vide order dated 20.7.2020 in FIR No. 20 dated 28.1.2020 under Sections 304-B, 34 IPC and subsequently added Sections 323, 406, 498-A IPC,

registered at Police Station Loharu, District Bhiwani.

As per the facts of the case in hand, an FIR No. 20 dated 28.1.2020 was got registered by the petitioner (father of deceased Sunita Kanwar), against respondent No. 2 and his parents. As per the case of the petitioner, the Additional Sessions Judge, Bhiwani, vide order dated 20.7.2020, allowed the bail application of respondent No. 2 without taking into consideration the gravity of offence and nature of allegations. As per the allegations, the marriage of daughter of the petitioner/complainant with respondent No.2, was solemnized on 28.11.2013 and out of the said wedlock, a girl child was born, who was statedly residing with the petitioner. The daughter of the petitioner/complainant was working as ANM in Saket Hospital, Mansarowar Colony, Jaipur, and she left her job in the first week of January, 2020. On 27.1.2020, the petitioner received an information that his daughter Sunita Kanwar, had died. During investigation, the daughter of the deceased, namely, Lavanya @ Lavi has got recorded her statement under Section 164 Cr.P.C. that her father along with her grandparents, had killed her mother. As per the post-mortem report, there were four injuries on the person of deceased-Sunita Kanwar.

Learned counsel for the petitioner contends that the police has been trying to save the accused right from the beginning and it has conducted a very shoddy investigation in the matter. The repeated representations of the petitioner did not yield any result and rather the accused in connivance with the police, got the statement of minor Lavanya @ Lavi manipulated, at the back of the petitioner. When, the petitioner

had moved an application before the Magistrate, for further investigation, it was revealed that further investigation was already going on, at the police level.

Basing his arguments on the aforesaid assertions, it is contended that the order dated 20.7.2020 passed by Additional Sessions Judge, Bhiwani, granting regular bail to respondent No. 2, has been passed without taking into consideration the factual and legal aspects of the matter and hence, the same is liable to be cancelled. Reliance is placed upon the judgment of the Hon'ble Apex Court in case of Puran versus Rambilas, 2001(2) R.CR (Criminal) 801 and Gurcharan Singh Vs. State (Delhi Admn.), AIR 1978 SC 179.

Learned State counsel, while making reference to the reply filed by the State, submits that the allegations leveled against the petitioner are serious in nature and, thus, the bail granted to him is liable to be cancelled.

I have heard learned counsel for the parties.

Section 439(2) Cr.P.C. stipulates that the High Court or Court of Session may direct that any person who has been released be arrested and commit him to custody.

In view of the said statutory provisions, there are parallel powers conferred upon the High Court as also the Court of Session under Section 439(2) Cr.P.C. Thus, there is no embargo as regards the maintainability of the present petition. The law laid down by the Hon'ble Apex Court in Dr. Narendra K. Amin versus State of Gujarat and another, 2008(2) RCR (Criminal) 858 also deals with such aspect of the matter.

However, without going into the pleadings raised in the present petition and the reply filed by the State, this Court is of the considered opinion that it would be just, proper and expedient for the petitioner to approach the Court of Additional Sessions Judge, Bhiwani, which had granted regular bail to respondent No.2, for cancellation of the same. Such course is also considered proper for the reason that once, an application seeking cancellation of the bail is filed before the said Court by the petitioner with all the pleadings as raised in the present petition, the said Court will have the first hand opportunity to deal with the same and adjudicate upon it. Still further, such a course would also meet the ends of justice, as any aggrieved party, may have the opportunity to seek redressal of his grievance before this Court.

In view of the above, the present petition is dismissed.

No order as to costs.

(HARNARESH SINGH GILL)
JUDGE

April 06, 2021
Gurpreet/ds

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No