

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

CRM-M-36838-2019
Decided on : 27.10.2021

Pushpa Rani

..... Petitioner

Versus

UT, Chandigarh & others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Sumanjit Kaur, Advocate
for the petitioner.

Mr. Y.S.Rathore, Addl. PP, UT, Chandigarh.

Mr. Kanishk Sarup, Advocate for
Mr. Vivek Thakur, Advocate
for respondents No.2 to 4.

Manjari Nehru Kaul, J.(Oral)

Prayer had been made in the instant petition filed under Section 439(2) Cr.PC for cancellation of impugned order dated 06.08.2019 (Annexure P-3) passed by Addl. Sessions Judge, Chandigarh vide which respondents No.2 to 4 had been granted the concession of anticipatory bail in case FIR No.58 dated 23.03.2019 under Sections 406 and 498-A IPC registered at Police Station Women Sector 17, Chandigarh.

Learned counsel for the petitioner contended that the impugned order had been passed by the trial Court without appreciating that the dowry articles, which were handed over to the accused-respondent No.2 and his family members at the time of marriage, had not been recovered. She submitted that though it was urged and the list of articles in the possession

of the respondents was brought on record before the trial Court on 24.05.2019 yet the trial Court erred in ignoring the said fact by not giving any weightage to the non-recovery of those articles mentioned in the said list. It was also urged that all efforts made by the petitioner to explore the possibilities of an amicable settlement/reconciliation with her husband i.e. respondent No.2 had failed to yield any result on account of the negative attitude of respondent No.2. However, this fact too was ignored by the Court below while making the interim bail absolute. Besides this, learned counsel also argued that the impugned order should not have been passed by the trial Court in the absence of counsel for the complainant (petitioner herein) as a strike call had been given by the District Bar Association on the said date and still further, learned counsel's presence had wrongly been marked in the interim order. Learned counsel submitted that in the circumstances, the impugned order passed by the trial Court suffered from patent illegality more so since it had been brought to the notice of the Court by the Assistant Public Prosecutor that the entire recovery of dowry articles had not been effected, and thus, deserved to be set aside by ordering cancellation of bail to the respondents No.2 to 4.

Learned counsel for respondents No.2 to 4 has vehemently opposed the prayer and submissions made by counsel opposite by urging that the impugned order did not suffer from any patent illegality as had been urged. He submitted that whatever dowry articles were in their possession stood duly recovered during the investigation and hence, the trial Court had rightly extended the concession of bail to them.

A query was put to learned State counsel as to whether there had been any breach of conditions imposed upon the respondents No.2 to 4 subsequent to the grant of anticipatory bail to them vide order dated 06.08.2019 to which, he, on instructions, replied in the negative.

Heard learned counsel for the parties and perused the material available on record.

No doubt, if it appears to a superior Court that an accused has been granted bail on irrelevant material or there has been non-application of mind and the order so passed is illegal, an order for cancellation of bail can indeed be made.

However, coming to the case in hand, primarily cancellation of bail is being sought for, by the learned counsel for the petitioner on grounds of non-recovery of entire dowry articles. Non-recovery of dowry articles alone cannot be a ground to restrict the personal liberty of an accused much less cancel the concession of bail, which may have already been extended to him by a Court of law as it needs to be emphasised that the provisions of Section 406 and 498-A IPC have not been enacted for the purpose of enabling the recovery of dowry articles. Hence, postulating the recovery of certain disputed dowry items may not by itself be a ground for denial of bail much less cancellation of bail once it has been granted by the trial Court.

A perusal of the impugned order does not reflect any improper much less arbitrary exercise of judicial discretion by the trial Court. Hence, in the absence of any such impropriety or arbitrary exercise of judicial discretion, this Court would loathe to cancel the concession of bail, which

has been granted to respondents No.2 to 4.

Accordingly, the present petition stands dismissed.

27.10.2021
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(MANJARI NEHRU KAUL)
JUDGE

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