

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

CRM-M-38223-2019(O&M)

Date of Decision: 06.09.2021

Anita Gill

...Petitioner

Versus

State of Haryana and Anr.

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Manish Soni, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

Mr. Aditya Sanghi, Advocate
for respondent No. 2.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 439(2) Cr.P.C. for cancellation of anticipatory bail granted to the private respondent by this Court vide order dated 05.09.2016 passed in CRM-M-22349-2016 in case FIR No.101 dated 14.06.2016 under Sections 498A, 406, 506 and 34 IPC, registered at Women Police Station, Gurugram, District Gurugram.

Learned counsel for the petitioner prays for cancellation of bail on the ground that there has been no compliance of the condition imposed by the High Court to the effect that the accused respondent No. 2 would hand over the NOC of the car to the petitioner/complainant. It is submitted that in the dowry, a car was purchased in the name of the husband/respondent herein and while the bail application came up for

hearing in the court the same was opposed by the petitioner herein on the ground that apart from the other dowry articles that having been recovered, the accused respondent had not handed over the NOC pertaining to the car which was in the possession of the petitioner/complainant. Learned counsel for the petitioner lays great stress on the order dated 05.09.2016 which clearly specifies that the interim order dated 08.07.2013 was made absolute subject to the condition that the petitioner therein will hand over the NOC in respect of the vehicle to the complainant within a fortnight. It is submitted that the relevant documents were to be handed over which was not done within the specified time and the same were given to her only on 03.10.2016 by the Investigating Officer.

Learned State counsel would submit that it is a matrimonial dispute between the parties.

On the other hand, learned counsel for the accused-respondent No. 2 opposed the request for cancellation of bail order by stating that there has been subjective compliance of the order dated 05.09.2016 in so far as NOC was handed over to the Investigating Officer in the Police Station on 22.09.2016 itself. It is also submitted that Anita/complainant has kept silent over the said matter for over three years after the passing of the said order while contending that she had also filed an application under Section 173(8) Cr.P.C. alleging that the entire gold/silver/istridhan had not been recovered by the Investigating Officer and that the same stands dismissed.

I have heard both the parties and perused the case file.

Admittedly, the order dated 08.07.2013 by which the interim bail was allowed, was confirmed vide order dated 05.09.2016 subject to the petitioner handing over the NOC to the complainant therein within the

period of fortnight. A perusal of the zimni case diary produced in the Court would reflect that the petitioner had in fact handed over the said NOC to the Investigating Officer in the police station on 22.09.2016 which apparently reach in the hands of the complainant only on 03.10.2016. In the view of the said fact, there is substantial compliance of the order passed by the Court

Moreover, there is no explanation forth coming as to why the petitioner herein kept silent for over the past three years to ask for cancellation of the said bail order, therefore, this court finds no ground for cancellation of the bail that was allowed by this Court as far back as 05.09.2016.

However, at this stage, learned counsel for the respondent No. 2 very fairly submits that in case the complainant petitioner would hand over the requisite forms to be signed by the respondent/accused to the IO within a period of two weeks, the same will duly be signed by respondent/husband and returned to the Investigating Officer within a week thereafter. In case any photograph is to be furnished the same will also be supplied.

Needless to say, in case there is any fee or penalty that has to be paid that shall not be borne by the respondent-husband. Such expenses that are to be incurred in the transfer of the said vehicle, will be borne by the petitioner herself.

The petition is disposed of in the above terms.

06.09.2021

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(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No