

201

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

CRM-M-6466-2021

Decided on: 17th February, 2022

Pinki Devi

Petitioner

Versus

State of Haryana and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Baljeet Beniwal, Advocate for the petitioner.

Ms. Dimple Jain, Assistant Advocate General, Haryana.

Mr. Tanmoy Gupta, Advocate for the respondents No.2 to 5.

AVNEESH JHINGAN, J (Oral):

[1] Due to COVID-19 situation, the Court is convened through video conference.

[2] This petition is filed for cancellation of bail granted to the respondents No.2 to 5 by the Sessions Court in case of FIR No. 132, dated 20th December, 2020 under Sections 148, 149, 323, 325, 307 and 506 IPC, registered at Police Station Bahin, District Palwal.

[3] As per the allegations in the FIR, on 20th December, 2020, accused Shyambir, Jagat and Mahinder abused the complainant (petitioner) and objected on her cleaning the *nali*. Shyambir and Jagat were attributed *lathi* blow. It was alleged that her brother-in-law and

father-in-law were also inflicted injuries with *danda*. As per petitioner, other co-accused namely Parveen, Naveen, Bhim, Bal Kishan @ Balo, Bhisam, Jag Parvesh and others caused injuries to Bhagat Singh and Birender and tried to kill them by inflicting injuries on the head. Accused also sustained injuries inflicted by the complainant party. Considering the facts of the case and that the recovery was already effected, the respondents No. 2 to 5 were granted bail subject to their joining investigation.

[4] Learned counsel for the petitioner submits that Court had granted anticipatory bail without considering the gravity of offence. He submits that there was threat perception to the petitioner and application dated 21st January, 2021 was moved before the Superintendent of Police, Palwal.

[5] Learned State counsel relies upon the pleadings of the reply filed. She submits that accused cooperated during investigation, the investigation is complete, challan stands presented. It is further submitted that complaint of alleged threat was made prior to passing of orders granting interim bail, which was considered and no truth was found in the allegations.

[6] The Supreme Court in **Myakala Dharmarajam and others etc. v. State of Telangana and another**, AIR 2020 SC 317, the Supreme Court considering its earlier decision in **Raghubir Singh v. State of Bihar, (1986) 4 SCC 481** laid down the scope of power to be exercised in cancellation of bail. It was held that it is necessary to

examine whether the order passed by the Sessions Court granting bail is perverse and suffers from the infirmities which has resulted in the miscarriage of justice or there was likelihood of the accused tampering with the evidence. The relevant paragraphs are quoted below:

“7. In Raghbir Singh v. State of Bihar, (1986) 4 SCC 481 this Court held that bail can be cancelled where (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation, (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation, (v) there is likelihood of his fleeing to another country, (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency, (vii) attempts to place himself beyond the reach of his surety, etc. The above grounds are illustrative and not exhaustive. It must also be remembered that rejection of bail stands on one footing but cancellation of bail is a harsh order because it interferes with the liberty of the individual and hence it must not be lightly resorted to.

*8. It is trite law that cancellation of bail can be done in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant material indicating prima facie involvement of the accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in cancelling the bail **Kanwar Singh Meena v. State of Rajasthan & Anr. (supra).**”*

[7] The allegations made in the complaint were found false. On a specific query from learned counsel for the petitioner, he submits that no remedies were availed against filing of complaint.

[8] There are no allegations of likelihood of tampering with evidence. No ground is made out for interference in the orders granting anticipatory bail, the petition is dismissed.

[AVNEESH JHINGAN]
JUDGE

17th February, 2022
pankaj baweja

- | | | |
|-------------------------------|---|-----|
| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |