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

CRM-M-7535-2020

Decided on: 8th February, 2022

Chanderbhan Singh

Petitioner

Versus

State of Punjab and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gagandeep Singh, Advocate for
Mr. Amandeep Singh Manaise, Advocate for the petitioner.

Mr. V.G. Jauhar, Deputy Advocate General, Punjab.

None for the respondent No. 2.

AVNEESH JHINGAN, J (Oral):

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

[2] This petition under Section 439(2) Cr.P.C. is filed seeking cancellation of anticipatory bail granted to Rani Bai @ Rani (respondent No.2) vide order dated 19th November, 2019 in FIR No. 276, dated 13th November, 2019, under Sections 420, 177, 181 and 120-B IPC, registered at Police Station Sadar Fazilka, District Fazilka.

[3] The FIR was registered at the instance of Chanderbhan. The allegations were that respondent No.2 belongs to 'Yadav' caste which falls under the category of backward class but she got the certificate of scheduled caste by recording her caste as 'Megh'. She was

availing benefits of Scheduled Caste.

[4] The respondent No. 2 was granted anticipatory bail by the Additional Sessions Judge, Fazilka on 19th November, 2019. In the impugned order, it was noted that respondent No.2 belongs to the scheduled caste by birth but she got married to Subhash Chander of 'Yadav' caste. It is a debatable issue as to whether she belongs to scheduled caste or not.

[5] Learned counsel for the petitioner submits that benefits granted to the scheduled castes were availed by the respondent No. 2 by procuring false certificate, the allegations are serious.

[6] Learned counsel appearing for the State submits that the respondent No. 2 joined the investigation and her custodial interrogation is not required. He submits that cancellation report was prepared and filed but the matter has been sent by the trial Court for re-investigation.

[7] After hearing the learned counsel for the parties at length, no case is made out for cancellation of anticipatory bail granted to the respondent No. 2.

[8] 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 Raghubir 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).**"*

[9] Keeping in view the law laid down by the Supreme Court and the fact that there is no allegation that anticipatory bail granted to the respondent No. 2 was misused, no ground is made out for cancellation of bail.

[10] The petition is dismissed.

[AVNEESH JHINGAN]
JUDGE

8th February, 2022
pankaj baweja

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