

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

201

**CRM-M-22048-2021
Decided on : 11.11.2022**

Inderjit Kaur

.....Petitioner(s)

Versus

State of Punjab and another

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. G.S. Bhinder, Advocate for
Mr. S.K. Choudhary, Advocate for the petitioner (s).

Mr. Arjun Sheoran, DAG, Punjab
for respondent No.1.

None for respondent No.2.

G.S. Sandhawalia, J. (Oral)

Present petitioner under Section 439 (2) Cr.P.C. has been filed for cancellation of the anticipatory bail granted to the private respondent No.2 in FIR No.20 dated 10.03.2020 under Section 498-A IPC lodged at Police Station Ghuman, District Batala.

The ground for cancellation is that a sum of Rs.8 lakhs for the settlement was to be paid for the settlement of the claim and there was a proposal to file a petition under Section 13-B of the Hindu Marriage Act, as per the mediation proceedings, which had taken place. In such circumstances earlier interim order for anticipatory bail had been confirmed.

It is submitted that the husband of the petitioner is not adhering to the terms of the compromise and, therefore, the order should be recalled.

Counsel for the respondent No.2 had put in appearance at the initial stage, but he is not appearing thereafter and at one point of time on 10.12.2021 counsel for respondent No.2 Mr. Amit Arora had submitted that Rs.8 lakhs would be deposited with the Registrar General of this Court. On 10.12.2021, the following order was passed:-

“Mr. Arora, on instructions from respondent No.2, has submitted that a sum of Rs.8 lakhs will be deposited with the Registrar General of this Court, so that terms of compromise as agreed in the settlement proceedings in the Medication Centre, are adhered to.

On deposit of the said amount, the same shall be kept in a Fixed Deposit Receipt, to earn the maximum rate of interest.

Needful be done on or before the next date of hearing.

List on 11.02.2022.”

Thereafter, on 11.02.2022 also accommodation was prayed for by proxy counsel for respondent No.2 to do the needful. Eventually on 29.04.2022 Mr. Arora had submitted that respondent No.2 is not in touch with him and he has no further instructions.

Counsel for the State though has pointed out that there was only a proposal as such and, therefore, no ground is made out for cancellation, since the investigation is complete and challan has been presented on 27.05.2021.

In the considered opinion of this Court, the benefit of anticipatory was taken by holding out that the wife would be compensated and the custody of the minor daughter was to remain with the husband/respondent No.2. The parties had also to file a petition for quashing of the FIR. The grant of anticipatory bail was, thus, on the basis of consent *inter se* the parties, which has openly been violated by respondent No.2 by not depositing Rs.8 lakhs. The Counsel had thereafter

had undertaken to deposit the amount but not adhered to the same, which is contemptuous, as he has taken the benefit of the anticipatory bail. Thus, this Court is of the considered opinion that the benefit which was granted in such circumstances of anticipatory bail which is discretionary needs to be withdrawn.

Accordingly, the present petition is allowed. The anticipatory bail which was granted vide order dated 22.05.2020 which was confirmed on 27.10.2020 is cancelled. The State shall take steps to take respondent No.2 in custody. However, it will be open for him to file an appropriate application for regular bail before the competent Court.

Petition stands allowed in the abovesaid terms.

(G.S. SANDHAWALIA)
JUDGE

11.11.2022

Naveen

Whether speaking/reasoned :
Whether Reportable :

Yes/No
Yes/No