

**212-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-28578-2020

Date of decision : 21.07.2022

Hasina

.....Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Sandeep Gahlawat, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. G.P.S. Bal, Advocate
for respondent No.3.

RAJESH BHARDWAJ, J.

Petitioner has filed this petition under Section 439(2) Cr.P.C. praying for cancellation of anticipatory bail granted to respondent No.3 by this Court vide order dated 31.01.2020 passed in CRM-M-21356-2019 in case FIR No.230 dated 29.11.2017, under Sections 328, 363, 376-D, IPC, registered at Police Station Lalru, District Mohali.

Learned counsel for the petitioner submits that the petitioner before this Court is the victim of a heinous offence. He submits that respondent No.3 and his co-accused were specifically named in the FIR who abducted the prosecutrix and thereafter, committed a gang rape on her. He submits that however, during investigation, the investigating agencies in a high-handedness manner conducted shoddy investigation and thus, intentionally declared two of the accused i.e. including respondent No.3 as innocent. He has submitted that during the course of trial, the prosecutrix was examined as PW-1 and she reiterated her allegations as made in her earlier statements. She filed a petition under Section 319 Cr.P.C. praying for summoning the respondent No.3 and co-accused who were kept in Column

No.2 during investigation. She submits that learned trial Court accepted the same and summoned the respondent No.3 under Section 319 Cr.P.C. He submits that thereafter, respondent No.3 approached this Court praying for grant of anticipatory bail. This Court granted anticipatory bail to respondent No.3 vide impugned order dated 31.01.2020. He submits that immediately after having been granted the pre-arrest bail, respondent No.3 started misusing the concession of bail granted to him. He submits that respondent No.3 extended threats to the family members of the prosecutrix and he scuffled with uncle of the petitioner. Respondent No.3 time and again started threatening and intimidating the prosecutrix and her relatives just to pressurize her for compromising the FIR. He has contended that the matter was brought to the notice of the local police who called both the parties and initiated proceedings but the police officials sided with respondent No.3 and by calling both the parties, got a compromise effected between them. He submits that the parents of the petitioner were threatened that in case they did not compromise the matter, they would initiate proceedings under Section 107/51 of Cr.P.C. He submits that as respondent No.3 is misusing the concession of bail granted to him, the same is prejudicial to the ongoing trial and hence, the same be cancelled.

Learned State counsel submits that in pursuance to the order passed by this Court, the status report is already filed. She submits that the allegations made by the petitioner in the petition were duly inquired into and were found false. She has drawn the attention of this Court to the status report filed wherein, it is specifically mentioned that on inquiry into the allegations made, no incriminating evidence has been found against respondent No.3 regarding misusing of the concession of anticipatory bail granted.

The counsel for respondent No.3, Mr. G.P.S. Bal, has opposed the submissions made by counsel for the petitioner. He submitted that allegations are false and frivolous and were not substantiated during the enquiry by the investigating agency.

I have heard counsel for the parties and perused the record.

It is apparent from the record of the case that respondent No.3 though named in the FIR, however, during investigation, he was found innocent. During the course of trial, he was summoned under Section 319 Cr.P.C. This Court after hearing counsel for the parties and perusing the record granted anticipatory bail by virtue of impugned order dated 31.01.2020. The prosecutrix, who is author of the FIR, has approached this Court praying for the cancellation of anticipatory bail granted to respondent No.3. The Court is to proceed with circumspection. The cancellation of the bail cannot be accepted in a cavalier manner. The conduct of the accused after granting of bail is of material importance. The petitioner has leveled the allegations of misusing the concession of bail by respondent No.3 on which the State was directed to file the status report. As per the report, the allegations were inquired into and were not substantiated. As the petitioner has failed to substantiate her arguments regarding misuse of the concession of bail by respondent No.3, this Court finds no merit in the petition hence, the same is dismissed.

21.07.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No