

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

CRM-M-31009-2022

Date of Decision: 20th July, 2022

Chandani

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Ganesh Chand Sharma, Advocate for the petitioner.
Ms. Dimple Jain, AAG, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. This petition is filed seeking cancellation of regular bail granted to Bijender Singh in case of FIR No. 800, dated 17th December, 2020, under Section 306 read with Section 34 of Indian Penal Code, 1860, registered at Police Station Palla, Faridabad.

2. The FIR was registered on 17th December, 2020, as information was received by the police officials that a compounder in Active Health Care had committed suicide (deceased-Sunil). FIR was registered at the instance of wife of deceased. As per the allegations, there was dispute between the deceased and his brothers with regard to the partition of the property. The deceased was being pressurized to give divorce to the complainant. There was a dispute between the complainant and the deceased. On the occasion of Raksha Bandhan there was an altercation between the deceased and his sister. The deceased committed suicide due to the pressure of his family. He left a suicide note stating that respondent No.2 (elder brother of the deceased) has meted mental pressure and harassment upon him. The respondent No.2 filed three bail

applications before the Sessions Judge, two were rejected and one was withdrawn. Respondent No.2 was granted bail vide order dated 8th March, 2022. While granting bail, it was considered that the respondent was in custody since 1st September, 2021. The FSL report with regard to handwriting of the suicide note was received though the handwriting matched but there was no date mentioned on the suicide note. The Court considered that it would be subject matter of the trial whether it was an abetment or instigation by respondent No.2. Further it was noticed that charges have been framed but no witness was examined and conclusion of trial was likely to take time.

4. Learned counsel for the petitioner has argued only on the following issue:-

(i) The date on the suicide note was never mentioned. There was no new fact before the Sessions Court while dealing with the fourth bail application.

(ii) When the earlier applications for bail were filed, no prosecution witness was examined and same was the position on 8th March, 2022.

5. 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

“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).**”*

6. The Supreme Court in **Dolat Ram vs. State of Haryana, 1995 SCC (1) 349**, the relevant para is quoted below:-

“Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of Justice or evasion or attempt to evade the due course of justice or abuse of

the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a nonbailable case in the first instance and the cancellation of bail already granted.”

7. This Court generally desists from making comments on the merits of the case, however, on insistence of the counsel for the petitioner, his contentions are being dealt only for purpose of deciding this petition.

8. The non mentioning of date on the suicide note would have its relevance when the prosecution will have to prove as to whether respondent No.2 had instigated or abetted the deceased for committing suicide. As to when the suicide note was written would be a relevant factor to be considered in trial. The said fact cannot be totally lost sight while considering the issue of personal liberty of the accused.

9. The contention that the position regarding non examination of prosecution witnesses had not changed after rejection of earlier bail petition does not enhance the case of petitioner for cancellation of bail.

10. The bail was granted considering the relevant factors i.e. custody period, the trial was not proceeding and its conclusion was likely to take time, as also that the investigation was complete.

11. No case is made out for interference in impugned order,
petition is dismissed.

(AVNEESH JHINGAN)
JUDGE

20th July, 2022
Parveen Sharma

Whether reasoned/speaking	Yes
Whether reportable	Yes