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

CRM-M-41185-2022

Date of Decision: September 09, 2022

Rekha Sharma

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Deepak Girotra, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.(ORAL)

Instant petition has been filed under Section 439(2) Cr.P.C. praying for cancellation of pre-arrest bail granted to respondent No.2 vide order dated 02.07.2022, Annexure P-9, passed by learned Additional Sessions Judge, Faridabad, with a further prayer for setting aside the order dated 22.08.2022, Annexure P-11, whereby application for cancellation of bail has been declined in case FIR No.267, dated 14.05.2022, under Sections 323, 34, 377, 498-A, 506 and 511 IPC, registered at Police Station Surajkund, Faridabad.

As per the facts of the case, the petitioner is the complainant in this case, who lodged the present FIR. Learned counsel submits that petitioner got married with respondent No.2 on 18.07.2021, however, after some time of the marriage, her husband and in-laws started harassing her. Her husband being alcoholic used to beat her. She was persistently being harassed for not bringing the sufficient dowry. She was beaten by her husband and mother-in-law and cruelty went on unabated. She resorted to

take legal recourse and thus filed the present FIR for taking the legal action against respondent No.2.

On lodging the FIR, the investigation commenced and respondent No.2 approached the Court of learned Additional Sessions Judge, Faridabad, for grant of anticipatory bail, who after hearing both the parties, granted interim bail vide order dated 22.06.2022 subject to the conditions under Section 438(2) Cr.P.C. and the same was affirmed on 02.07.2022. The complainant/petitioner filed the application for cancellation of the same before the learned Additional Sessions Judge, Faridabad, however, the same was declined vide order dated 22.08.2022. Aggrieved by the same, the petitioner/complainant has approached this Court by way of present petition.

Counsel for the petitioner/complainant has vehemently contended that the learned Additional Sessions Judge has fallen in error in granting anticipatory bail to respondent No.2 and thereafter rejecting the petition filed by the petitioner for cancellation of bail under Section 439(2) Cr.P.C. He has submitted that the learned Additional Sessions Judge has granted the anticipatory bail to respondent No.2 without considering the proper facts of the case. He has submitted that it was the second marriage of both the petitioner and respondent No.2 and respondent No.2 disclosed to the petitioner that he was duly divorced by his first wife, however, after the marriage, the petitioner/complainant came to know that the fact was concealed from her by respondent No.2 as there was no decree of divorce granted by any Court of law in his favour and he had got a panchayati divorce from his earlier wife. He also submitted that respondent No.2 deceived the petitioner by claiming himself to be a gazetted officer whereas

submitted that respondent No.2 got married with the petitioner without disclosing the status of his earlier marriage to the effect that his marriage was not dissolved and he had a child also from the earlier marriage. He submits that the dowry articles were not recovered from respondent No.2 but the learned Additional Sessions Judge without appreciating the facts and circumstances of the case, granted anticipatory bail to respondent No.2. He submits that the learned Additional Sessions Judge has granted the anticipatory bail to respondent No.2 without judicial appreciation of facts and circumstances of the case and thus, the same deserves to be cancelled.

Heard.

After hearing the counsel for the petitioner/complainant and perusing the record of the case, it is apparent that this was the second marriage of both the petitioner as well as respondent No.2. The dispute between both the husband and the wife is matrimonial in nature. Allegations levelled by the petitioner/complainant, who is the author of the FIR, are that the dowry articles were not recovered and respondent No.2 concealed some facts about his earlier marriage and hence by doing so, he has committed fraud with the petitioner/complainant and thus, the concession of anticipatory bail granted to respondent No.2 deserves to be cancelled.

Granting bail to the accused and cancelling the bail both rest on different parameters. Once bail is granted to the accused, the same cannot be cancelled in a cavalier manner. Learned Court below has appreciated the facts and circumstances of the case while granting the bail and thereafter while adjudicating the petition filed by the petitioner/complainant for cancellation of the same. The contention raised by counsel for the petitioner/complainant did not find favour with the Court and thus, the same

was declined. Emphasis led by the petitioner/complainant regarding misrepresentation and fraud committed by respondent No.2 are the subject matter of the trial. Non recovery of dowry articles cannot be a ground itself for rejection of the bail granted. There is nothing on the record to show that respondent No.2 has misused the concession of bail granted to him.

Thus, in the overall facts and circumstances of the case, this Court does not find any merit in the petition and resultantly, the same is dismissed.

September 09, 2022
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(RAJESH BHARDWAJ)
JUDGE

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |