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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-1646-2023

Date of Decision:12.01.2023

MANGAT RAI GARG

..... Petitioner

*Versus*

STATE OF HARYANA AND ANOTHER

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present : Mr. Aditya Sanghi, Advocate  
for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

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**JAGMOHAN BANSAL, J. (Oral)**

1. The petitioner, through instant petition under Section 439(2) read with Section 482 of Cr.P.C., is seeking cancellation of regular bail granted to respondent No.2 by ASJ, Sirsa vide order dated 23.12.2022 in FIR No. 233 dated 15.05.2022 registered at Police Station City Mandi Dabwali, District Sirsa, Haryana.

2. Learned counsel for the petitioner *inter alia* contends that learned Additional Sessions, Judge, Sirsa while granting bail on 23.12.2022 has ignored following facts:

- (i) The alternative charge under Section 302 has not been considered;
- (ii) The presumption of guilt envisaged under Section 113B of the Evidence Act has not been considered;
- (iii) The statement of witnesses have not been considered;
- (iv) The witnesses are yet to be examined;
- (v) The disclosure statement of accused has not been considered in true spirit;
- (vi) Though postmortem report is on record yet the chemical analysis report is awaited;

3. I have heard arguments of the learned counsel for the petitioner and perused the record.

4. The respondent was indubitably arrested and thereafter released on regular bail. The petitioner remained in custody from 16.05.2022 to 23.12.2022. The relevant extracts of impugned order passed ASJ, Sirsa read as:

*“The applicant-accused is in custody since 16.05.2022 and the trial of the case shall take long time and nothing is to be recovered from the applicant-accused and challan has already been presented on 12.08.2022. Further, there is nothing in the complaint of the complainant nor in the report under Section 173 Cr.P.C. that as to what was being demanded by the applicant-accused from the deceased Aarti and there is nothing in the complaint of the complainant that what dowry articles were given at the time of marriage and how much amount was spent by the complainant on the marriage. Further, in the report dated 11.10.2022 of RFSL, Hisar, no common poison could be detected and that as per Crime Scene Visit Report, it was opined that it appeared to be a case of hanging and that as per report dated 15.10.2022 of Dr. R.K.Dahiya, the cause of death was Asphyxia due to hanging which was ante mortem and sufficient to cause death in ordinary course of nature and that as fibers reports are pending, so regarding ligature material, it could not be commented. Moreover, the mother-in-law, father-in-law and brother-in-law have been found innocent during investigation and the complainant as well as the alleged accused-persons had given separate applications to the Superintendent of Police, Sirsa for*

*fair/further investigation and vide order No. 26823-28 dated 13,07.2022 (on the application of the accused) and vide order No. 32301-08 dated 27.08.2022 (on the application of the complainant), the Superintendent of Police constituted Special Investigating Team (SIT), who presented the supplementary challan exonerating the parents-in-law and brother-in-law of the deceased and it was also found that no suicide note was recovered and that there were no differences between the deceased and parents-in-law, brother-in-law, rather, there was some dispute between the husband and wife, due to which, the deceased committed suicide and therefore, no useful purpose will be served by keeping the applicant-accused in custody. The question of influencing or threatening the complainant and other independent witnesses does not arise because had it been so, the parents and brother would have influenced them by this time whereas there is no such allegation of the complainant till today to that effect.*

*7. In view of my above said discussion and without commenting on the merits of the case, I allow the present first regular bail application filed on behalf of applicant-accused and he is admitted to bail on his furnishing bail bonds in the sum of Rs.1,00,000/- with one surety in the like amount to the satisfaction of this Court. Papers be attached with the main case file.”*

5. The parameters of granting and cancellation of bail are totally different. Bail cannot be cancelled unless and until there is evidence of misuse of bail in the form of commission of similar or identical offence, tampering or destruction of evidences, threatening or winning over of witnesses or there is total non-application of mind. Bail

already granted cannot be cancelled in a mechanical manner.

6. In the case in hand, there is no evidence of misuse of bail. Court while granting bail is not supposed to deal with each and every contention of the complainant. A bail once granted cannot be cancelled on the basis of bald allegations of the complainant especially when there is no complaint by prosecuting agency supported by evidence of misuse of bail. From the perusal of impugned order, it comes out that the court below while granting regular bail has passed a reasoned order which needs no interference. The present petition being bereft of merit deserves to be dismissed.

7. Dismissed.

( JAGMOHAN BANSAL )  
JUDGE

12.01.2023  
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|---------------------------|---------------|
| Whether speaking/reasoned | Yes/No        |
| <i>Whether Reportable</i> | <i>Yes/No</i> |