

CRM-M-21454-2022

-1-

101

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

CRM-M-21454-2022 (O&M)

Date of Decision : 17.07.2023

Gurpreet Kaur

....Petitioner

VERSUS

State of Punjab and Anr.

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sanyam Bhardwaj, Advocate for the petitioner.

Mr. Adhiraj Singh, AAG Punjab for respondent No.1.

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ALKA SARIN, J. (Oral)

1. This is a petition filed under Section 439(2) read with Section 482 of the Code of Criminal Procedure, 1973 for setting aside the order dated 16.03.2022 (Annexure P-8) passed by the Learned Sessions Judge, Sangrur whereby the application filed by the petitioner for cancellation of anticipatory bail granted to accused/respondent No.2 herein vide order dated 11.10.2019 in FIR No.160 dated 04.09.2019 registered under Sections 498A and 406 of the Indian Penal Code, 1860 at Police Station Sadar, Sangrur, has been rejected.

2. The brief facts may be noticed. Respondent No.2 in the present case was granted anticipatory bail vide order dated 11.10.2019 since the parties had arrived at a compromise. Thereafter, the parties lived together as husband and wife in a separate accommodation for almost two years. The application for cancellation of bail was moved by the complainant on 29.10.2021 on the ground that the accused i.e. respondent No.2 and his family had beaten her brother and her on 25.03.2021 and a FIR has been registered qua the said occurrence. It has been noticed in the impugned order that respondent No.2 had stated in his reply before the Sessions Court that there are CCTV cameras installed at his house and the footage of the relevant day i.e. 23.03.2021 revealed that no such incident had taken place and that the complainant left the house on her own accord. The application for cancellation of bail was dismissed vide the impugned order dated 16.03.2022. Aggrieved by the same, the present petition has been preferred.

3. Learned counsel for the petitioner would contend that the respondent No.2 has misused the concession of anticipatory bail granted to him and a second case has been registered against him and that the petitioner is being harassed by respondent No.2.

4. I have heard learned counsel for the parties.

5. In the present case the petitioner and respondent No.2 had arrived at a compromise. The anticipatory bail was confirmed on 11.10.2019 subject to the condition that respondent No.2 shall abide and remain bound by the terms of the settlement. It is not a case where immediately after the confirmation of the anticipatory bail respondent No.2 did not reside with the

petitioner. Admittedly, the parties resided together for a period of almost two years and it is only in 2021 that a FIR had been lodged by the petitioner regarding some alleged beatings by the respondent No.2. It has been noticed in the order of the Sessions Court that respondent No.2 has stated that there are CCTV cameras installed at the house and no such incident has been captured on the CCTV. Respondent No.2 would face the consequences on the basis of the fresh FIR lodged against him. However, cancellation of bail requires some cogent and overwhelming circumstances. The Hon'ble Supreme Court in the case of **Dolat Ram Vs. State of Haryana [1995 (1) SCC 349]** has held as under :

“3. 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.

4. We are, therefore, satisfied that the cancellation of anticipatory bail granted to the appellants, for the reasons given by the High Court, was not justified. Nothing has been brought to our notice either from which any inference may possibly be drawn that the appellants have in any manner, whatsoever, abused the concession of bail during the intervening period.”

6. Yet again in the case of **Bhuri Bai Vs. The State of Madhya Pradesh [2022 SCC Online SC 1779]** their Lordships of the Supreme Court while dealing with the cancellation of bail have held as under :

“17. The order dated 05.08.2021 as passed by the learned First Additional Sessions Judge, Jaura, District

Morena, though had not been explicit on all the surrounding factors but then, the facts were indeed taken into consideration that two of the co-accused were granted pre-arrest bail whereas the other co-accused person, husband of the appellant, was granted regular bail. In the given set of facts and circumstances, if the Trial Court was satisfied that the appellant was entitled to be given the concession of bail while putting her to specific terms and conditions, the order so passed had neither been suffering from any fundamental error nor there was any other material factor for which the bail granted to the appellant was to be annulled.

18. In our view, even if the High Court had its reservations in the order so passed by the Trial Court granting bail to the appellant, particularly when the fact of long absence of the appellant was not adverted to, it was yet required to be taken note of by the High Court that the power being exercised was not that of a regular appeal or revision but, it was that of cancellation of bail under Section 439(2) CrPC.

19. It remains trite that normally, very cogent and overwhelming circumstances or grounds are required to cancel the bail already granted. Ordinarily, unless a strong case based on any supervening event is made out,

an order granting bail is not to be lightly interfered with under Section 439(2) CrPC.

20. It had not been the case of the prosecution that the appellant had misused the liberty or had comported herself in any manner in violation of the conditions imposed on her. We are impelled to observe that power of cancellation of bail should be exercised with extreme care and circumspection; and such cancellation cannot be ordered merely for any perceived indiscipline on the part of the accused before granting bail. In other words, the powers of cancellation of bail cannot be approached as if of disciplinary proceedings against the accused and in fact, in a case where bail has already been granted, its upsetting under Section 439(2) CrPC is envisaged only in such cases where the liberty of the accused is going to be counteracting the requirements of a proper trial of the criminal case. In the matter of the present nature, in our view, over-expansion of the issue was not required only for one reason that a particular factor was not stated by the Trial Court in its order granting bail.”

7. In the present case counsel for the petitioner has not been able to point out to any cogent and overwhelming circumstance requiring or warranting the cancellation of bail granted to respondent No.2.

CRM-M-21454-2022

-7-

8. In view of the above, I do not find any merit in the present petition which is accordingly dismissed. Pending applications, if any, also stand disposed off.

17.07.2023
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO