

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

212

CRM-M-39391-2021

Date of Decision: 02.03.2023

Pinki**...Petitioner****Versus****State of Haryana and Another****...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Dinesh Kumar, Advocate for the petitioner

Ms. Dimple Jain, AAG, Haryana

Mr. Kartar Singh, Advocate for the respondent No.2

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Section 439(2) of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking cancellation of regular bail granted to respondent No.2 vide order dated 12.05.2021 (Annexure P-8) passed by Additional Sessions Judge, Faridabad in FIR No.38 dated 07.02.2021 under Sections 376(2)(n), 506, 495 & 323 of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Women NIT, Faridabad.

2. The brief facts of the case are that petitioner moved a complaint before police authorities against respondent No.2 which culminated into registration of FIR No.38 dated 07.02.2021 under Sections 376(2)(n), 506, 495 & 323 IPC registered at Police Station Women NIT, Faridabad. Respondent No.2 was arrested on 14.03.2021 and thereafter, released on regular bail vide order dated 12.05.2021 passed by Additional Sessions Court, Faridabad.

3. Learned counsel for the petitioner *inter alia* contends that respondent No.2 is misusing the concession of bail. The petitioner has preferred two complaints before police authorities.

4. Learned counsel for respondent No.2 states that petitioner is trying to get bail of respondent No.2 cancelled and for the said purpose she is making one after another bald allegation.

5. Learned State counsel, on instructions from ASI Monica, submits that charges stand framed against respondent No.2. The matter is fixed for prosecution evidence on 29.04.2023. She further submits that there is nothing on record disclosing that respondent No.2 has not appeared before the Trial Court or misused the concession of bail.

6. I have heard learned counsels for the parties and perused the record.

7. The State is not seeking cancellation of bail and petitioner has not brought on record any evidence disclosing misuse of concession of bail granted by Trial Court. Therefore, there is no reason to cancel the bail already granted by the Court.

8. 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.

9. 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. The present petition being bereft of merit deserves to be dismissed.

10. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

02.03.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>