

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

**CRM-M No.39290 of 2023 (O&M)
DATE OF DECISION : 10.08.2023**

SXXXX

.....Petitioner

versus

State of Haryana and Others

.....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Divya Narula, Advocate for the petitioner

ALKA SARIN, J. (Oral):

1. This is a petition under Section 439(2) read with Section 482 of the Code of Criminal Procedure, 1973 for cancellation of bail in FIR No.372 dated 01.12.2022 under Sections 323, 354-A, 354-D, 376, 506 & 509 of the Indian Penal Code, 1860 registered at Police Station Nathu Sarai Chopta, District Sirsa.

2. Notice of motion.

3. Ms. Mahima Yashpal, DAG Haryana accepts notice on behalf of respondent No.1-State of Haryana.

4. Learned counsel for the petitioner would contend that the victim, who is the daughter of the petitioner, was raped and at the time of rape she was a minor girl. It is further the contention of the learned counsel that once there are allegations of rape, anticipatory bail ought not to have been granted.

5. Learned counsel for the State, on instructions from ASI-Sunita, has pointed out that the victim in the present case is a married girl who is now in a live-in-relationship with the main accused (respondent No.4 herein). It is further the contention of learned counsel for the State that even in the FIR there are no dates mentioned as to when the alleged phone call was made or the rape was committed. The further contention is that a totally vague allegation has been made that a phone call was made about 20/25 days prior to the lodging of the FIR. The learned State counsel has further referred to the report of the Civil Hospital, Sirsa where the victim was taken for her medical examination and she refused to get her medical conducted. The learned State counsel has further pointed out that an affidavit was given to the Investigating Officer by the victim/complainant and the main accused with the request that the FIR be cancelled since they were both in a live-in-relationship.

6. Heard.

7. In the present case the prayer is for cancellation of pre-arrest bail. 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.”

8. 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.4. The FIR is totally bereft of any details as to when the alleged phone call was made or when the rape was committed. The victim/complainant even refused to get herself medically examined. The argument of the counsel for the petitioner that the victim was a minor is also not believable since the victim was a married lady.

9. 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.

10.08.2023
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(ALKA SARIN)
JUDGE

<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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