

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**204****CRM-M No.45894 of 2019****Date of Decision : 09.10.2023**

Preeti

....Petitioner

VERSUS

State of Haryana and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sarfaraj Hussain, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana for respondent No.1.

Mr. Rohit Chaudhary, Advocate for respondent Nos.2 to 4.

ALKA SARIN, J. (Oral)

1. This is a petition under Section 439(2) CrPC read with Section 482 CrPC for cancellation of anticipatory bail granted to the private respondent Nos.2 to 4 vide order dated 21.09.2019 passed by the Additional Sessions Judge, Faridabad and order dated 03.10.2019 passed by the Judicial Magistrate Ist Class, Faridabad in case FIR No.97 dated 09.07.2019 under Sections 498-A, 354-A, 323, 506, 406 and 34 of the Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Women Sector 16-A, Faridabad, District Faridabad.

2. Learned counsel for the petitioner would contend that there are serious allegations against respondent Nos.2 to 4 in the present case and hence the anticipatory bail has wrongly been granted to them. It is further the contention that recovery of articles is yet to be made. Learned counsel for the petitioner has further contended that the petitioner wishes to resume

cohabitation with respondent No.4 and hence prays that the matter may once again be referred to Mediation and Conciliation Centre of this Court.

3. Learned counsel for respondent Nos.2 to 4 has contended that the parties were granted divorce vide order dated 09.12.2022. The said petition for divorce was duly contested by the petitioner herein. Against the said judgment and decree granting divorce, an appeal was also filed before the Delhi High Court bearing No.MAT.APP(F.C)14/2023 titled 'Preeti vs. Vikas'. The said appeal was also dismissed vide order dated 05.09.2023.

4. I have heard learned counsel for the parties.

5. 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 non-bailable 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, learned counsel for the petitioner has not been able to point out any condition of bail which has been violated or any other ground to show that respondent Nos.2 to 4 have been misusing the concession of bail. The only argument raised by learned counsel for the petitioner is that the petitioner wishes to cohabit with respondent No.4. Respondent No.4 herein filed a petition for grant of divorce before the Principal Judge, Family Court, South District, Saket Court, New Delhi, which was contested by the petitioner herein, and vide judgment dated 09.12.2022 the same was allowed. The order granting divorce was challenged by the petitioner herein before the Delhi High Court and the appeal stands dismissed vide order dated 05.09.2023 holding that there was

no ground to interfere with the decree of divorce granted in favour of respondent No.4 under Section 13(1)(ia) of the Hindu Marriage Act, 1955.

8. In view of the fact that no ground is made out for cancellation of anticipatory bail granted to respondent Nos.2 to 4, the present petition is dismissed. Pending applications, if any, also stand disposed off.

09.10.2023

jk

(ALKA SARIN)
JUDGE

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