

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-62453-2023 (O&M)
Date of decision : 12.12.2023

Aastha Panda ... Petitioner(s)

Versus

State of Haryana & Anr. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Virat Amarnath, 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 granted to respondent No.2 in FIR No.590 dated 30.09.2023 under Sections 323, 406, 498-A, 506 and 34 of the Indian Penal Code, 1860 registered at Police Station Mahesh Nagar, District Ambala.
2. Learned counsel for the petitioner would contend that there are specific allegations qua dowry and hence it has wrongly been observed in the order that there was no instance of entrustment. It is further contended that it was specifically stated that there were articles given to the mother and father of respondent No.2 as also a cheque amounting to Rs.2 lakhs. The learned counsel would further contend that respondent No.2 had threatened the petitioner and that she called up her father and told him that she would

commit suicide whereupon her father sent her air-tickets and the petitioner along with minor daughter went to the house of her parents. The learned counsel for the petitioner has further contended that respondent No.2 has been threatening the complainant-petitioner and has been sending her messages and emails. Some of the messages have been handed over in Court by the learned counsel for the petitioner.

3. Notice of motion.

4. On the asking of the Court, Ms. Mayuri Lakhanpal Kalia, DAG Haryana accepts notice on behalf of the State-respondent No.1. Mr. Abhishek Vashista, Advocate has put in appearance on behalf of respondent No.2.

5. Learned counsel for respondent No.2 has stated that there has been no violation of the terms and conditions of the bail granted to respondent No.2 and that no threatening messages or emails were ever sent and that the emails only voice the anguish of respondent No.2 qua the events as they have unfolded.

6. Learned counsel for the State on instructions from LASI Mamtesh has stated that there has been no complaint regarding respondent No.2 having issued any threats to the petitioner nor has there been any violation of the terms and conditions of the bail as granted to respondent No.2.

7. Heard.

8. In the present case though allegations have been made qua dowry in the FIR, however, there are no allegations of any specific entrustment. 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.”

9. 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.”

10. In the present case the learned counsel for the petitioner has not been able to point out any cogent and overwhelming circumstances requiring or warranting the cancellation of bail granted to respondent No.2. The messages that have been handed over in Court, which have been sent by respondent No.2 to the complainant-petitioner and her father, are only words of anguish which have been voiced by respondent No.2 and there are no threats in any of the said messages.

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

12.12.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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