

212 **IN THE HIGH COURT OF PUNJAB & HARYANA AT**
CHANDIGARH

CRM-M-2127-2023 (O&M)
Date of Decision: 31.01.2024

Jethu Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Amandeep Singh Samra, Advocate,
for the petitioner.

Mr. M.S. Tiwana, AAG Punjab.

None for respondent No.2.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 482 read with Section 439(2) of Code of Criminal Procedure for cancellation of order dated 23.12.2022 (P-5) *vide* which respondent No.2 was granted bail pending trial by learned Sessions Judge, Barnala in FIR No. 459 dated 16.10.2022 registered under Section 306 read with Section 34 IPC, at Police Station, City Barnala.

2. The FIR in question was registered on the statement of complainant Jethu Singh that on 16.10.2022, his son Devinder Pal Singh committed suicide on the instigation of his wife Kulwinder Kaur (respondent No.2).

3. Learned counsel for petitioner contends that allegations are very serious against respondent No.2 and her complicity is apparent; yet she was granted bail pending trial only after two months of registration of the FIR.

Also contends that it weighed with the learned Sessions Judge that respondent No.2 is a female and having minor child of 08 years; thus, the order impugned is not legally sustainable.

4. *Per contra*, learned State counsel while assisting the Court submitted that respondent No.2 was arrested on 19.10.2022. After presentation of *challan*, she was released on bail *vide* order dated 23.12.2022 and at that time, her custodial interrogation was not required and which is so recorded by learned Sessions Judge as well.

5. Heard learned counsel for the parties and perused the paper-book.

6. In *State (Delhi Administration) Versus Sanjay Gandhi (1978) 2 SCC 411*, a three-Judge Bench of Hon'ble the Supreme Court made the following elemental distinction in defining the nature of exercise while cancelling the bail:-

“Rejection of bail when bail is applied for is one thing; cancellation of bail already granted is another. It is easier to reject a bail application in a non-bailable case than to cancel a bail already granted in such a case. Cancellation of bail necessarily involves the review of a decision already made and can by and large be permitted only if, by reason of supervening circumstances, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during the trial.”

7. There is no dispute that respondent No.2 was arrested on 19.10.2022 and she was granted the benefit of bail after two months. It is also acknowledged by both sides that *challan* had already been presented before she was released on bail by learned Sessions Judge and the observations made in this regard are as under:-

“6. After considering the above, as the challan has already been presented and pending for committal proceedings. That the applicant is in judicial custody since 19.10.2022, entailing that the applicant is no more required by the police for further investigation. That the applicant is female and having minor child of 08 years. No useful purpose shall be served by detaining the applicant behind bars for indefinite period. The application is allowed and the applicant is admitted to bail on her furnishing bail bonds and surety bonds to the satisfaction of Illaqa Magistrate/Duty Magistrate. Bail papers be consigned to record room.”

8. There are no supervening circumstances pointed out by learned counsel for petitioner warranting cancellation of bail granted to respondent No.2. She is regularly appearing before the Court below. There is no allegation that she is likely to misuse the concession of bail or hamper the proceedings in any manner. It is also not in dispute that respondent No.2 is a female and due considerations are to be given in such cases when a regular bail is to be decided. Apart that, respondent No.2 is having a minor child of 08 years; therefore, in the opinion of this Court, learned Sessions Judge has granted bail after due consideration of the matter and no interference is required.

9. In view of the above, there is no option, except to dismiss the present petition.

10. Ordered accordingly.

11. Pending application(s), if any, shall also stand disposed off.

31.01.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No