

203

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

**CRM-M-8499-2020(O&M)**

**Date of decision: 28.02.2024**

Manjeet Kaur

...Petitioner

*Versus*

State of Punjab and another

...Respondent

**CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present: Mr. Sanjeev Kumar, Advocate for  
Mr. J.S. Dadwal, Advocate for the petitioner.

Ms. Avneet, AAG., Punjab.

None for respondent No. 2.

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**MAHABIR SINGH SINDHU, J.**

Present petition under Section 439(2) of the Code of Criminal Procedure, 1973 (for short, 'the Code') has been filed for cancellation of pre-arrest bail granted to respondent No.2, vide order dated 10.02.2020 (P-3) passed by learned Additional Sessions Judge, Ludhiana in FIR No.0004 dated 22.01.2020 under Section 380 of Indian Penal Code, 1860, registered at Police Station Maloud, Police District Khanna, District Ludhiana.

(2) Short reply dated 27.02.2024 by way of affidavit of Nikhil Garg, PPS, Dy. Superintendent of Police, Sub Division Payal, Police District Khanna, District Ludhiana filed on behalf of respondent-State,

is taken on record. Copy supplied to other side. Registry to tag the same at appropriate place.

(3) It is contended by learned counsel for the petitioner that alleged gold ornaments are yet to be recovered from respondent No.2; hence, the pre-arrest bail granted to her by learned Additional Sessions Judge deserves to be cancelled and she be subjected to custodial interrogation in this regard.

(4) No one has appeared on behalf of respondent No.2 despite service. However, learned State counsel opposed the prayer of petitioner while submitting that charges under Sections 380/201 IPC have already been framed against respondent No.2 as well as co-accused-Ajmer Singh and now trial is pending for prosecution evidence for 10.04.2024. She also submitted that respondent No.2 is regularly appearing before learned trial Court and she has not misused the concession of bail in any manner.

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

(6) In ***State (Delhi Administration) Versus Sanjay Gandhi (1978) 2 SCC 411***, a three-Judge Bench of Hon'ble the Supreme Court while dealing with the cancellation of bail observed as under:-

*“13. 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) In the present case, matter was investigated thoroughly, but the police was not able to recover the alleged gold articles. Ultimately, the report under Section 173 of the Code was submitted and respondent No.2 along with co-accused-Ajmer Singh have been charged by the Court of competent jurisdiction under Sections 380 & 201 IPC. For reference, Para Nos.3 and 4 of the affidavit dated 27.02.2024 (*supra*) are recapitulated as under:-

*“3. That during the investigation Section 201 IPC was added for causing the disappearance of the stolen gold. After completion of investigation, the challan was produced before the court on 13-09-2021. The Charge has been framed by the Ld. Court on 22-10-2021 U/s 380 and 201 IPC against both the abovesaid accused persons and the case is pending for Prosecution Evidence.*

*4. That the petitioner in the present petition has taken one of the grounds for cancellation of bail that the recovery of gold ornaments has yet to be effected, for which, it is submitted that Section 201 IPC has already been added during the investigation for causing disappearance of the stolen gold.”*

(8) It is not in dispute that now trial is pending for prosecution evidence on 10.04.2024 and there is no allegation that respondent No.2 has misused the concession of pre-arrest bail in any manner till date. In such a scenario, it would be for the prosecution to prove the charges against respondent No.2 and/or co-accused-Ajmer Singh, but there is

no justification to cancel the pre-arrest bail granted by learned Additional Sessions Judge after a period four years, particularly when respondent No. 2 is regularly appearing before learned trial Court; and she has not misused the concession in any manner.

(9) Consequently, there is no option except to dismiss the petition.

(10) Ordered accordingly.

(11) It is clarified that above observations may not be construed as an expression of opinion on the merits of the case.

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

28.02.2024  
Harish Kumar

( MAHABIR SINGH SINDHU )  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |