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

CRM-M-37892-2024

Date of decision: 06.08.2024

Sxxx

....Petitioner

Versus

State of Haryana and another

## ...Respondents

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. A.S. Cheema, Advocate  
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

**HARPREET SINGH BRAR, J.**

1. The present petition is preferred under Section 480(5) of the Bharatiya Nagrik Suraksha Sahinta, 2023 (hereinafter 'BNSS') for setting aside the order dated 12.07.2024 (Annexure P-1) passed by the learned Additional Sessions Judge (Fast Track Court), Gurugram whereby bail was granted to respondent No.2 under Section 438, Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') in FIR no. 234 dated 25.06.2024 registered under Sections 376(2)(n), 328, 377, 506 of the IPC at Police Station Bilaspur, Gurugram.

2. Briefly, the facts are that in October, 2022, respondent No.2 had assured the petitioner, a 40 years old lady, of a job once he is elected as Sarpanch. Subsequently, respondent No.2 took the petitioner to Gurugram for her interview in his car. However, he took the petitioner to a hotel and served her a beverage laced with intoxicants. While she was intoxicated, respondent No.2 raped the petitioner. When she regained consciousness, respondent No.2 informed her that he had taken obscene pictures and videos of her and he would



upload them to the social media if she discloses the incident to anyone. On 28.01.2024, respondent No.2 took the petitioner to another hotel and raped her again. He also took her to Sikkar, Rajasthan and raped her while threatening to kill her with his licensed weapon.

3. Learned counsel for the petitioner submits that respondent no. 2 was granted anticipatory bail by the learned trial Court vide impugned order dated 12.07.2024 (Annexure P-1). The learned trial Court has given undue importance to the fact that respondent No.2 had deposited money to the bank account of the petitioner, as the same does not affect the veracity of the allegations levelled by her. Moreover, the learned trial Court has overreached in directing the investigating officer to verify the bank statement of the victim as well as her husband since the same is uncalled for at the stage of granting bail. Also, the phone conversations and the transcript (Annexure P-4) for the same would indicate no contradiction to the narrative put forward by the petitioner.

4. I have heard the learned counsel for the petitioner and perused the record of the case with his able assistance.

5. The scope and power of the judicial review of an order granting bail has been illustrated by the Hon'ble Supreme Court in ***Dolat Ram and others vs. State of Haryana (1995) 1 SCC 349***, as follows:-

*“(i) interference or attempt to interfere with the due course of administration of justice;  
(ii) evasion or attempt to evade the due course of justice;  
(iii) abuse of the concession granted to the accused in any manner;  
(iv) possibility of the accused absconding;  
(v) likelihood of/actual misuse of bail;  
(vi) likelihood of the accused tampering with the evidence or threatening witnesses.”*



6. A three Judge Bench of the Hon'ble Supreme Court in ***Deepak Yadav vs. State of Uttar Pradesh and another (2022) 8 SCC 559***, speaking through Justice Krishna Murari, has summarized the principles for grant or denial of bail. The power and discretion of the Court to cancel the bail of the accused in the absence of overriding circumstances was illustrated and the following was observed:-

*“33. It is no doubt true that cancellation of bail cannot be limited to the occurrence of supervening circumstances. This Court certainly has the inherent powers and discretion to cancel the bail of an accused even in the absence of supervening circumstances. Following are the illustrative circumstances where the bail can be cancelled:*

*33.1. Where the Court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record.*

*33.2. Where the Court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim.*

*33.3. Where the past criminal record and conduct of the accused is completely ignored while granting bail.*

*33.4. Where bail has been granted on untenable grounds.*

*33.5. Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.*

*33.6. Where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified.*

*33.7. When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case.”*

7. In view of the above discussion, this Court is of the considered view that the learned counsel for the petitioner has not been unable to indicate any perversity in the impugned order or demonstrate any conduct on part of respondent No.2 that would warrant interference by this Court. Cancellation of his bail for unfounded apprehension of threat by the petitioner would not meet the objective standard of reason and justice.

8. Accordingly, the present petition stands dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)  
JUDGE

06.08.2024  
*Neha*

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No