



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

1) CRM-M-44574-2024
Date of decision: 09.09.2024

SunitaPetitioner

Versus

State of Haryana and another ...Respondents

2) CRM-M-44613-2024
Date of decision: 09.09.2024

Sunita

....Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.S. Gill, Advocate
for the petitioner (in both petitions).

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J.

1. This common order shall dispose of both the above mentioned petitions as they arise from identical factual matrix. However, for the sake of brevity, the facts are taken from CRM-M-44574-2024.

2. The present petition is preferred under Section 438(3) Cr.P.C. read with Section 528 BNSS seeking cancellation of bail granted to respondent No.2- Babita and Sunil (respondent No.2 in CRM-M-44613-2024) in FIR No. 21 dated 18.01.2020 registered under Sections 420, 494, 120-B, 506 IPC (Sections 467, 468, 471 IPC added later) at Police Station Gadpuri, District Palwal (Annexure P-1).



3. Succinctly put, the facts are that the marriage between the petitioner and one Manoj on 26.04.2012 in accordance with Hindu rites and rituals at village Kishorepur, District Palwal. The petitioner was shunned out of her matrimonial home for want of dowry demand. Subsequently, it was discovered that Manoj's second marriage has been fixed with respondent No.2- Babita. A female child was also born them out of the said relationship. However, in connivance with each other, a marriage certificate indicating solemnisation of marriage between Babita and Sunil at Arya Samaj Mandir was prepared. Respondent No.2- Babita is currently staying with Manoj as his wife.

4. Learned counsel for the petitioner *inter alia* contends that respondent(s)-Sunil and Babita, in connivance with Manoj, husband of the petitioner, have fabricated the marriage certificate dated 25.01.2019. Respondent-Babita was granted concession of anticipatory bail by this Court in CRM-M-2792-2023 and respondent-Sunil was also granted the same concession in CRM-M-60017-2022 while their bail orders were made absolute vide order(s) dated 07.02.2024. However, on 17.02.2024, Babita and Sunil abused and slapped the petitioner and her father when they had arrived at the Court in Palwal. They also threatened them with dire consequences if the petitioner would not withdraw the present case against them. The father of the petitioner moved respective representations both dated 04.03.2024 against the respondents, Babita and Sunil (Annexures P-3 in both petitions). As such, respondent(s)-Babita and Sunil do not deserve the concession of bail and the concession of bail granted to them is liable to be cancelled.

5. Having heard learned counsel for the parties and after perusing the record of the case, it appears that the petitioner is seeking cancellation of bail



granted to respondent(s)- Babita and Sunil merely on the ground that they allegedly pressurised the petitioner to withdraw the present case. The parameters for denying bail and cancelling the same are quite varied. Denial of bail is a matter of discretion and can be decided upon without inspecting the details of the matter. If the Court is of the opinion that the accused is likely to misuse the liberty granted to him, it can deny bail simply on the basis of gravity of the offence. However, cancellation would amount to curtailment of the liberty already granted to an undertrial accused, which cannot be embarked upon in a cursory fashion. Only if a grave error is highlighted in the order granted bail or it is evident that the accused is misusing the concession, can the Court consider cancellation.

6. 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.”*

7. 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, observed as follows:

“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.”*

8. In view of the above discussion, this Court is of the considered view that the learned counsel for the petitioner has been unable to indicate any perversity in the impugned orders or demonstrate any conduct on the part of the respondent(s)-Babita and Sunil Kumar that would meet the objective standard of reason and justice and warrant interference by this Court, by cancelling the concession of bail to both the respondents, already granted to them by this Court.

9. Accordingly, without commenting anything on the merits of the case, the present petitions stand dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

09.09.2024
Neha

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