

2024.PHHC.111908



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

214

CRM-M-42991 of 2019 (O&M)

Date of decision: 29th August, 2024

Diksha

.....PETITIONER

VERSUS

The State of Haryana and another

.....RESPONDENTS

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

Present: Mr. Raj Sumer Singh, Advocate for petitioner.

Ms. Trishanjali Sharma, DAG Haryana.

Mr. Bakul Garg, Advocate for respondent No.2.

MANJARI NEHRU KAUL, J (ORAL)

Complainant has approached this Court under Section 439 (2) of the Cr.P.C., seeking cancellation of bail which was granted to respondent No.2 vide order dated 4.7.2019 in case of FIR No.409 dated 27.07.2018, under Sections 406, 420, 467, 468, 471, 120-B IPC, registered at Police Station City Yamuna Nagar, District Yamuna Nagar.

Learned counsel appearing for the petitioner/complainant has submitted that private respondent No.2 after being extended the concession of bail vide impugned order has been blatantly violating the liberty which has been granted to him in as much as he has been extending threats of dire consequences to the material witnesses through Instagram, and mobile phone etc.

Learned counsel has further submitted that it is not once, but on as many as three occasions, the respondent No.2 had extended threats to

three material witnesses including the complainant that in case they dared to

depose against him before the Trial Court, they would have to suffer serious consequences.

Learned counsel has submitted that on receipt of continuous threats, the petitioner/complainant was left with no other choice but to approach the police and give a complaint in the said regard. Resultantly, his complaint was inquired into by the police leading to the registration of FIR No. 393 dated 19.8.2022, under Section 506 IPC against respondent No.2. It has also been submitted by learned counsel that on account of the respondent No.2 continuing to exert pressure on the remaining material witnesses by threatening them with dire consequences, the trial had not proceeded any further and 11 prosecution witnesses still remained to be examined.

It has also been brought to the notice of this Court that after the registration of the present FIR, another FIR No. 642 dated 6.11.2019, under Sections 354D, 506 read with Section 34 IPC and 3 (1)(S) of SC/ST Act at Police Station City Yamuna Nagar, had been registered against respondent No.2 and one other person at the instance of the present petitioner, wherein respondent No.2 had not only been challaned but even charges framed against him. Learned counsel has further prayed that in the aforementioned facts and circumstances, there is a genuine fear in the mind of the complainant party that respondent No.2 could cause them more harm in case the remaining prosecution witnesses dared to depose against him before the Trial Court, not only in the present case, but also in the other cases which now stand registered against respondent No.2.

Learned State counsel, while drawing the attention of this Court to the short reply filed by way of affidavit of Rajesh Kumar, HPS, Deputy Superintendent of Police, Yamuna Nagar-II, has not disputed the submissions

had indeed been booked in other criminal cases after he was enlarged on bail vide order dated 4.7.2019. It has also not been disputed by learned State counsel that repeated complaints have been received by the police with respect to the threats being extended by respondent No.2, as a result of which a criminal case had been registered against him, and still further the trial had not progressed after the evidence of three prosecution witnesses had been recorded, out of 14 cited prosecution witnesses, presumably on account of the aforesaid threats, none of them had appeared before the Trial Court to depose.

Learned counsel appearing for respondent No.2 has however, vehemently opposed the prayer and submissions made by the counsel for the petitioner-complainant by arguing that the petitioner-complainant is a habitual litigant and has been moving false complaints against respondent No.2, on account of their strained relations. It has been further submitted that even otherwise false and fabricated case has been planted upon respondent No.2 in FIR No. 409 dated 27.07.2018. Hence, he was rightly extended the concession of bail vide impugned order.

Learned counsel for respondent No.2, however, has not been able to dispute that after the registration of the present FIR, and after being enlarged on bail, the respondent No.2 has indeed been booked in two other criminal cases.

I have heard learned counsel for parties and perused the relevant material on record.

Before proceeding further, it would be appropriate to refer to the observations made by the Hon'ble Supreme Court in ***Deepak Yadav vs. State of U.P. (2022) 8 SCC 559***, which elucidate the grounds for the cancellation

“31. This Court has reiterated in several instances that 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 trial. Having said that, in case of cancellation of bail, very cogent and overwhelming circumstances are necessary for an order directing cancellation of bail (which was already granted).

32. A two-Judge Bench of this Court in [Dolat Ram and Others Vs. State of Haryana](#) (1995) 1 SCC 349; laid down the grounds for cancellation of bail which are :-

- (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 accused absconding;*
- (v) Likelihood of/actual misuse of bail;*
- (vi) Likelihood of the accused tampering with the evidence or threatening witnesses.”*

Adverting to the case in hand, as not disputed by learned counsel for respondent No.2 and rather conceded by him, the respondent No.2, after being extended the concession of regular bail by this Court, has been booked in two other criminal cases including one at the instance of the petitioner-complainant, with regard to the alleged threats extended to the material witnesses in the FIR in question. It is, thus, discernible that the respondent No.2 has indeed misused the liberty granted to him while being granted the concession of bail by this Court vide order dated 04.07.2019. This Court had categorically observed in the aforesaid order that the prosecution would be at liberty to seek cancellation of bail of the petitioner (now respondent No.2), in case he is found involved in any other case or found misusing the concession of bail. Hence, the bail granted to the respondent No.2 vide order dated 04.07.2019 in CRM-M No.57214 of 2018

is cancelled forthwith. The respondent No.2 shall surrender before the Trial Court on or before 9th September, 2024.

The petition stands allowed in the above terms.

29th August, 2024
reema/rps

(MANJARI NEHRU KAUL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>