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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-46698-2024 (O&M)
Date of decision: 23.09.2024

Jxxxx

..Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

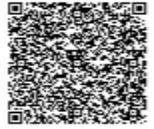
Present: Mr. Ajay Bansal, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J.(Oral)

1. Present petition is preferred under Section 483(3) read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for setting aside the order dated 14.08.2024 (Annexure P-3) passed by learned Additional Sessions Judge (Fast Track Court), Panipat, whereby application filed by the petitioner for cancellation of bail granted to respondent No.2 in FIR No.278 dated 15.07.2022 under Section 346 of the

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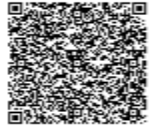


Indian Penal Code, 1860 (for short 'IPC') (Sections 323, 365, 376(2)(n), 506 IPC added and Section 346 of IPC deleted subsequently), registered at Police Station Matlauda, District Panipat, was dismissed.

2. Succinctly put, the facts are that husband of the petitioner lodged the FIR (*supra*), as the petitioner was found missing from the house on 14.07.2022. The petitioner had left the house, without any intimation, along with one 'S'. During the investigation, respondent No.2 was nominated as an accused. On 04.08.2022, the petitioner was recovered by the police and her statement under Section 164 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') was recorded on 05.08.2022. Respondent No.2 was arrested on 05.08.2022, however, he was granted regular bail in the third attempt vide order dated 10.07.2023 (Annexure P-2) passed by learned trial Court. Respondent No.2 claims that the petitioner left her house of her own free will, as they were in a consensual live-in relationship.

3. Learned counsel for the petitioner, *inter alia*, contends that respondent No.2 had fraudulently gotten the thumb impression of the petitioner on a blank paper, which he later used to execute an agreement dated 22.07.2022 indicating a live-in relationship between them. Since he was released on bail, respondent No.2 has been threatening to kill the

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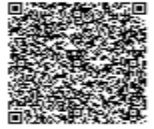


petitioner and her husband, if she fails to make a statement in his favour. Moreover, he has been calling her multiple times from different numbers on WhatsApp in order to pressurise her. Respondent No.2 also sent an unknown person to the house of the petitioner, who threatened her and her family. A copy of the WhatsApp chats has been annexed as Annexure P-7. The petitioner has also moved a complaint, in consequence of which, an FIR No.396 dated 06.10.2023 was registered under Section 506 of IPC at Police Station Matlauda, Panipat. As such, respondent No.2 has violated the conditions of his bail and thus, it deserves to be rescinded.

4. *Per contra*, learned State counsel submits that the trial is at the stage of prosecution witness and out of 14 prosecution witnesses, 11 PWs have already stand examined.

5. Having heard learned counsel for the parties and after perusing the record of the case, it appears that the case for the defence is that the petitioner and respondent No.2 were in a live-in relationship from 14.07.2022 to 04.08.2022. PW7 Satbir, owner of the house in Rohtak, where the petitioner and respondent No.2 allegedly stayed on rent, has testified that the two were residing together as husband and wife. He was declared hostile subsequently. Moreover, PW8 husband of 'S' deposed that the CCTV footage reflects that the petitioner had gone with respondent No.2 on his

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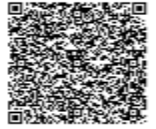
bike. Further still, the petitioner and her husband, the complainant, had failed to appear as witnesses in spite of repeated summons and issuance of non-bailable warrants against them. As such, there is a justified case for grant of regular bail to respondent No.2 and learned trial Court has passed order dated 10.07.2023 on correct appreciation of the facts and the law.

6. 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.

7. 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;*

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(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.”

8. 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.

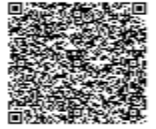
33.2. Where the Court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim.

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.

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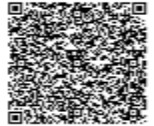
33.6. Where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified.

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

9. The petitioner had moved an application seeking cancellation of regular bail granted to respondent No.2 before learned trial Court, however, the same was dismissed vide order dated 14.08.2024 (Annexure P-3). It was recorded that only two witnesses i.e. Nodal Officer of the telephone company and the complainant (husband of the petitioner) remain to be examined. The complainant has not been appearing in spite of the fact that bailable warrants were issued against her, which indicates that the prosecution is attempting to unjustly delay the trial. Moreover, learned counsel for respondent No.2 had contended that it was the petitioner, who tried to reach out to him and consequently, he had blacklisted her number. The scope of interference by the Courts qua cancellation of bail is rather limited and adjudication upon the alleged facts, especially when the trial has reached at its fag end, does not fall within its purview.

10. 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

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any perversity in the impugned order dated 14.08.2024 (Annexure P-4) or demonstrate any conduct on part of respondent No.2 that would warrant interference by this Court as cancellation of his bail would not meet the objective standard of reason and justice.

11. Accordingly, the present petition stands dismissed. The impugned order dated 14.08.2024 (Annexure P-4) passed by learned Additional Sessions Judge (Fast Track Court), Panipat is hereby upheld.

12. All the pending miscellaneous application(s), if any, shall stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

23.09.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No