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

CRM-M-47921-2024

Date of decision: 02.12.2024

Bhupinder Kaur

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Deepak Goyal, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition is preferred under Section 439(2) Cr.P.C. for cancellation of anticipatory bail granted to respondent No.2 vide order dated 30.07.2024 (Annexure P-6) passed by this Court in the case stemming from FIR No.90 dated 28.10.2022 registered under Sections 498-A, 406 IPC at Police Station Women, District Patiala.

2. Succinctly put, the facts, as alleged by the prosecution, are that the marriage of the petitioner was solemnised with respondent No.2, on 26.01.2014, in accordance with Sikh rites and rituals. Soon after marriage, the petitioner was subjected to harassment in lieu of dowry by respondent No.2 and his family. When the petitioner refused to hand over her entire salary to respondent No.2 and his family, they gave her severe beatings and turned her out of the matrimonial home. A panchayat was convened in which respondent No.2 and his family refused to settle the petitioner in her matrimonial home causing the petitioner to register FIR(supra).



3. Respondent No.2 sought anticipatory bail but was denied the same by learned Sessions Court vide order dated 15.11.2022 (Annexure P-2). Aggrieved by the same, respondent No.2 approached this Court wherein he was granted interim bail vide order dated 21.11.2022 (Annexure P-3). The matter was referred to mediation and a compromise was arrived at, as reflected by settlement agreement dated 04.03.2024 (Annexure P-4). Subsequently, the interim bail was made absolute by this Court vide order dated 30.07.2024 (Annexure P-6) on the basis of the settlement arrived at between the parties.

4. Learned counsel for the petitioner *inter alia* contends that respondent No.2 was granted anticipatory bail on the basis of the compromise deed dated 04.03.2024 (Annexure P-4) wherein he had agreed to reside with and maintain the petitioner and their minor child. However, once anticipatory bail was granted to him, he left the company of the petitioner. Moreover, the dowry articles, which include 8-9 *tola* of gold and Rs. 1,50,000/-, are still in the possession of respondent No.2. As such, the concession of bail availed by him deserves to be withdrawn as he has played fraud with the Court.

5. Having heard learned counsel for the petitioner and after perusing the record of the case, it appears that learned counsel for the petitioner has not been able to indicate any reasons necessitating the bail granted to respondent No.2 to be cancelled. Nowhere has it been indicated that the sanctity of the trial will be adversely affected if he continues to enjoy the concession of bail. The scope of interference by the Courts qua cancellation of bail is rather limited and adjudication upon the alleged facts, does not fall within its purview.

Moreover, interim bail was granted to respondent No.2 before a compromise was arrived at between the parties. As such, there is a justified case for grant of anticipatory bail to respondent No.2, irrespective of the compromise arrived at



between the parties.

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;
(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.

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. In view of the above discussion, this Court is of the considered view that the cancellation of bail granted to respondent No.2 would not meet the objective standard of reason and justice. Learned counsel for the petitioner has been unable to indicate any perversity in the impugned order dated 30.07.2024 (Annexure P-6) or demonstrate any conduct on part of respondent No.2 that would warrant interference by this Court.

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

(HARPREET SINGH BRAR)
JUDGE

02.12.2024

Neha

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