

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

101

CRM-M-50742-2023
Date of decision: 14.03.2024

DIVYA
Vs.
....PETITIONER

STATE OF HARYANA AND ANOTHER
...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Ms. Gursimran Walia, Advocate for
Mr. Baljeet Beniwal, Advocate
for the petitioner.

Mr. Raman Sharma, Addl. A.G., Haryana.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Section 439(2) of Code of Criminal Procedure, 1973 is seeking cancellation of bail granted to respondent No. 2 vide order dated 17.02.2023 (Annexure P/2) passed by this Court.

2. This Court, by order dated 18.01.2023 granted interim bail to respondent No. 2. He joined investigation. On the basis of statement of State counsel to the effect that the petitioner therein has joined investigation and no custodial interrogation is required, this Court vide order dated 17.02.2023 made interim bail absolute. The petitioner is real sister of respondent No. 2. She is alleging that respondent No. 2 is misusing concession of bail and harassing her.

3. Reply dated 12.03.2024 by way of affidavit of Dinesh Kumar, HPS, Deputy Superintendent of Police, District Palwal filed on behalf of respondent No.1, is taken on record. Registry is directed to tag the same at appropriate place .

4. Mr. Raman Sharma, Addl. A.G., Haryana pointing out State's reply submits that investigation has already completed and police report under Section

173 Cr.P.C. stands filed against the private respondents. The police report was filed on 11.10.2023 and matter is pending before CJM, Palwal. He further submits that petitioner has not made any representation to Investigating Officer to the effect that there is threat to her life or respondent No. 2 is misusing concession of bail.

5. I have heard learned counsel for the parties and have scrutinized the record with their able assistance.

6. The conceded position emerging from record is that petitioner was granted concession of regular bail vide order dated 17.02.2023 passed by this Court. As per allegation, respondent No.2 harassed the petitioner on account of which aforesaid FIR was registered against him. The respondent No.2 at present is on bail and there is no evidence of misuse of concession of bail at least after registration of aforesaid FIR. The State has not filed any petition seeking cancellation of bail of the petitioner.

7. From the perusal of record and arguments of learned counsel for the parties, it comes out that grievance of the petitioner is that respondent No.2 after getting bail harassed the petitioner. The petitioner has not led any evidence of misuse of concession of bail granted to respondent No.2 at least after registration of aforesaid FIR. The petitioner is unable to controvert the fact that the respondent No.2 is on bail and he has joined investigation. The State is not seeking cancellation of bail. Therefore, there is no reason to cancel the bail already granted by this Court.

8. The parameters of granting and cancellation of bail are totally different. Bail cannot be cancelled unless and until there is evidence of misuse of bail in the form of commission of similar or identical offence, tampering or

destruction of evidences, threatening or winning over of witnesses or there is total non-application of mind. Bail already granted cannot be cancelled in a mechanical manner.

9. In the case in hand, the order granting bail was passed by this Court on 17.02.2023 and there seems no reason to cancel bail after a period of one year. There is no evidence of misuse of bail after registration of aforesaid FIR for which trial is still pending. The present petition, at this stage, being bereft of merit deserves to be dismissed and accordingly dismissed.

10. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

14.03.2024
anju

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No