



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

CRM-M-56431-2024 (O&M)

Date of decision: 14.11.2024

Mxxx

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajiv Rathore, Advocate
for Mr. Nipun Vashist, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J.

1. This is the second petition preferred under Section 528 BNSS seeking setting aside of order dated 30.09.2024 (Annexure P-5) passed by the learned Additional Sessions Judge, Rewari whereby the appeal against grant of bail to respondents No. 2 and 3 by the learned Sub Divisional Judicial Magistrate, Kosli vide order dated 01.07.2024 (Annexure P-3) in FIR No. 178 dated 25.06.2024 registered under Sections 323, 376, 406, 498-A, 34, 511, 506 IPC at Police Station Kosli, was dismissed.

2. The facts, as alleged by the prosecution are that marriage between the petitioner and respondent No.2 was solemnised on 20.11.2021 in accordance with Hindu rites and rituals. Respondent No.2 had come to village Jamalpur on leave on 04.04.2023. On 04.05.2023, the petitioner went to hospital to get her pregnancy tested but he same was found negative after which respondent No.2 stopped taking her call. Respondent No.2 came home on leave multiple times since then but did not meet the petitioner and remained at the



house of his maternal uncle. The maternal aunt and uncle of respondent No.2 as well as her brother-in-law (*devar*) i.e. respondent No.3 have been instigating him against the petitioner. Respondent No.2 made a demand of a Fortuner car and refused to pay any maintenance to the petitioner.

3. The private respondents were granted bail by the learned trial Court vide order dated 01.07.2024 (Annexure P-3). The petitioner approached this Court for cancellation of the said bail by means of a petition bearing No. CRM-M-42979-2024, which was dismissed as withdrawn vide order dated 02.09.2024 (Annexure P-4). However, liberty was granted to approach the learned lower Appellate Court. Accordingly, the petitioner approached the learned Additional Sessions Judge, Rewari, however, her petition was dismissed vide order dated 30.09.2024 (Annexure P-5).

4. Learned counsel for the petitioner *inter alia* contends that on 01.11.2024 a Status Report (Annexure P-2) was filed wherein it was specifically mentioned that upon counselling of the petitioner, as per the Legal Aid Report, Sections 323, 354-A, 376, 511 IPC were added. Leaned trial Court did not present any opinion on the addition of the said provisions, the Legal Aid Report or the statement of the victim under Section 164 Cr.P.C. Specific and serious allegations have been levelled against respondents No.2 and 3, however without application of judicial mind, the petition for cancellation of bail has been mechanically dismissed by the learned Court below.

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 respondents No.2 and 3 namely Joginder, husband of the petitioner and Parveen, his brother. However, expect for the allegations levelled against them, the learned counsel for the petitioner has not been able to indicate any



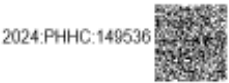
action on part of the private respondents that their conduct has hampered or is likely to obstruct the administration of justice. The parameters for denying bail and cancelling the same are quite varied. Denial of bail is a matter of discretion and can be decided upon without inspecting the details of 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 order or demonstrate any conduct on part of the respondents No. 2 and 3 that would meet the objective standard of reason and justice that would warrant interference by this Court.

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

(HARPREET SINGH BRAR)
JUDGE

14.11.2024
Neha

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