



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

CRR-2300-2024

Date of decision: 19.11.2024

Renu @ Rekha

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Savita Rana, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J.

1. The present revision petition has been preferred for seeking setting aside of order dated 09.09.2024 passed by the learned Additional Sessions Judge, Palwal whereby the application for cancellation of bail to accused-Dharmender @ Kallu granted by the same Court vide order dated 10.07.2024 (Annexure P-2) in FIR No. 343 dated 08.12.2023 registered under Sections 376(2)(n), 452 and 506 IPC at Police Station Mundkati, Palwal, was dismissed.

2. The facts, as alleged by the prosecution are that in the month of August 2022, the accused Dharmender @ Kallu entered the house of the petitioner and raped her at gun point. He also threatened her of dire consequences if she disclosed this to anyone. Thereafter, the accused repeatedly raped the petitioner. There are also allegations of physical and verbal abuse against the accused. Further, the accused coerced the petitioner to kill her husband and when she refused to comply with his demands, the accused tried to



strangulate her. Subsequently, she informed her husband which led to the registration of the FIR (*supra*).

3. The accused i.e. Dharmender @ Kallu was granted bail by the learned trial Court vide order dated 10.07.2024 (Annexure P-2) after second bail application had been moved in that regard. The petitioner feeling aggrieved, approached the learned trial Court seeking cancellation of the aforementioned bail order, however, her application was dismissed vide impugned order dated 09.09.2024.

4. Learned counsel for the petitioner *inter alia* contends that the accused and his family members have been continuously pressurising the petitioner and her husband to compromise the matter. Further ever since the accused has been granted the concession of bail, he has been creating problems for the petitioner and her family. The father of the accused keeps roaming outside the house of the petitioner and the mother of the accused keeps peeking inside the house of the petitioner. Specific and serious allegations have been levelled against the accused, however, without application of judicial mind, the application 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 the accused namely Dharmender @ Kallu. However, except for the allegations initially levelled against him, the learned counsel for the petitioner has not been able to indicate any action on part of the private respondent that his conduct has hampered or is likely to obstruct the administration of justice. The petitioner has levelled general and vague allegations against the accused and his family members and no cogent material has been brought on record to



substantiate that they interfered with the investigation of the case or threatened the petitioner and her family members in any manner. The petitioner and the accused live in adjoining houses therefore contact and interaction in some form or the other is unavoidable. 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 accused Dharmender @ Kallu 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

19.11.2024
Neha

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