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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-58980-2024 (O&M)
Date of decision: 26.11.2024

Kanwaldeep Kaur

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Kuljinder Bir Kaur Mann, Advocate
for the petitioner.

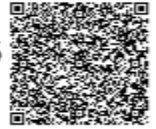
Mr. Sandeep Kumar, DAG, Punjab.

Mr. Harminder Singh, Advocate
for respondent No.2.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 483(3) of Bharatiya
Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for cancellation of bail
granted to respondent No.2 vide order dated 20.05.2024 (Annexure P-3) passed
by learned Additional Sessions Judge, Sri Muktsar Sahib, in the case stemming
from FIR No.60 dated 07.04.2024 under Sections 498-A & 406 of the Indian
Penal Code, 1860 (for short 'IPC'), registered at Police Station Lambi, District

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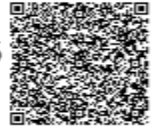


Sri Muktsar Sahib.

2. Succinctly put, the facts are that marriage of the petitioner was solemnized with one Jagjeet Singh, son of respondent No.2, on 06.12.2020. At the time of marriage, Rs.6,00,000/- were handed over to accused by her father. Respondent No.2 and her other in-laws counted the money and kept it with themselves. The petitioner was taunted by respondent No.2 and his family expressing their dissatisfaction with the dowry articles brought by her. She was subjected to daily physical harassment by her husband. In connivance with each other, respondent No.2 and his family raised a demand of Rs.15,00,000/- and threatened to oust her from the matrimonial home, if she failed to bring the said amount. The parents of the petitioner have deposited an amount of Rs.6,75,000/- in the joint account of the petitioner to meet the demands of her in-laws. Ultimately, on 22.10.2021, the petitioner was thrown out of the matrimonial home by her in-laws, who also refused to return her *stridhan*.

3. Learned counsel for the petitioner, *inter alia*, contends that respondent No.2 was erroneously granted interim anticipatory bail by learned Court below, vide order dated 04.05.2024 (Annexure P-2), which was made absolute vide order dated 20.05.2024 (Annexure P-3). It is further contended that specific allegations have been levelled against respondent No.2, as he was entrusted with Rs.6,00,000/-. He had also received one gold *kara* and Rs.11,000/- in cash, along with other things, as per his demand. Moreover, he

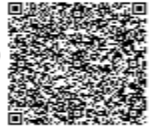
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along with his family had raised a demand of Rs.15,00,000/- to purchase a new car. Respondent No.2 was aware of the cruelty and beatings meted out to the petitioner by his son, but did not take any action. In fact, he concealed material facts about the marriage between his son and Priyanka, his first wife. As such, learned Court below ought not to have granted the concession of bail to respondent No.2.

4. *Per contra*, learned counsel for respondent No.2 submits that respondent No.2 has no role to play in the matrimonial life of the couple and he is living separately from them. No specific allegations have been levelled against respondent No.2. After considering all the material available on record, learned Court below granted anticipatory bail to respondent No.2 vide impugned order dated 20.05.2024 (Annexure P-3) and he has not misused the concession of bail in any way, thus, making the prayer for its cancellation is uncalled for.

5. Having heard learned counsel for the parties 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 it has been indicated that the sanctity of the trial will be adversely affected, if respondent No.2 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

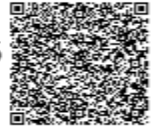


within its purview. Moreover, there is a justified case for grant of anticipatory bail to respondent No.2 and learned Court below has passed the order dated 04.05.2024 (Annexure P-2) as well as the order dated 20.05.2024 (Annexure P-3) on correct appreciation of the facts and the law.

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 under-trial 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, the Court can 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.

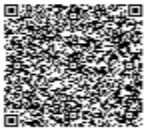
33.5. Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.

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 20.05.2024 (Annexure P-3) or demonstrate any conduct on the part of

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respondent No.2, that would warrant interference by this Court.

10. Accordingly, the present petition stands dismissed. The impugned order dated 20.05.2024 (Annexure P-3) passed by learned Additional Sessions Judge, Sri Muktsar Sahib is hereby upheld.

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

[HARPREET SINGH BRAR]
JUDGE

26.11.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No