



CRM-M-13621-2024 (O&M)

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

**CRM-M-13621-2024 (O&M)
Date of Decision: 08.01.2025**

Shaman Mittal

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Akshay Kumar Jindal, Advocate,
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. S.S. Narula, Advocate,
for respondents No.2 & 3.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of the order dated 20.02.2024 (Annexure P-15) passed by learned Sessions Judge, Karnal whereby the order dated 07.12.2023 (Annexure P-10) has been modified by learned Revisional Court in FIR No.843, dated 16.12.2022, registered under Section 323, 406, 498-A, 506 IPC at Police Station Sector-32-33, Karnal.

2. Mr. Akshay Kumar Jindal, learned counsel for the petitioner while giving the facts of the case submitted that it is a case where the petitioner got married to respondent No.3-Nipun Garg on 05.12.2019. However, as the private respondents were pressurizing the petitioner and her family members for dowry articles and there were various allegations pertaining to cruelty, consequently after some time, the relationship between



the petitioner and her husband turned sour and strained. He further submitted that thereafter the petitioner got registered an FIR No.843, dated 16.12.2022, under Sections 323, 406, 498-A & 506 IPC, registered at Police Station Sector 32-33, Karnal. The matter was investigated by the investigating agency and after registration of the FIR, both respondents No.2 & 3 filed an application for grant of anticipatory bail before learned Additional Sessions Judge, Karnal. The aforesaid application for grant of anticipatory bail was allowed by learned Additional Sessions Judge, Karnal vide order dated 23.01.2023 (Annexure P-3) wherein the Investigating Officer/Arresting Officer was directed to release respondents No.2 & 3 on interim bail as per conditions enshrined under Section 438(2) Cr.P.C.

3. Thereafter, both the private respondents against whom the cancellation of anticipatory bail was sought travelled abroad a number of times despite the fact that their application for grant of permission from learned trial Court for travelling abroad was dismissed as withdrawn by themselves. Thereafter, vide Annexure P-4, the aforesaid order was made absolute in the same terms and conditions as provided in the interim bail and the anticipatory bail application was disposed of by learned Additional Sessions Judge, Karnal on 14.02.2023.

4. Learned counsel for the petitioner further submitted that after the completion of investigation when the police presented the challan, respondents No.2 & 3 were present before learned trial Court and learned Court below vide Annexure P-16 on 02.03.2023 granted regular bail to them by observing that since respondents No.2 & 3 are already on anticipatory bail, they were directed to furnish bail bonds in the sum of Rs.60,000/- each



with one surety in the like amount. He also submitted that thereafter respondents No.2 & 3 furnished the aforesaid bail bonds as per the directions issued by learned trial Court. He further submitted that the reason for grant of regular bail was that respondents No.2 & 3 were already on anticipatory bail and that itself was the ground on which they were granted regular bail. He also submitted that at the time when respondents No.2 & 3 were on anticipatory bail, they violated the terms and conditions of the interim bail which was granted to them by imposing the conditions to the satisfaction of Section 438(2) Cr.P.C. but respondents No.2 & 3 travelled abroad on the business trip without getting prior permission of the Court and therefore, the petitioner moved an application for cancellation of anticipatory bail granted to respondent Nos.2 & 3.

5. The aforesaid application for cancellation of anticipatory bail was filed before learned Chief Judicial Magistrate, Karnal and the same was dismissed on 07.12.2023 vide Annexure P-10. He also submitted that the operative part of the aforesaid order consists of two parts. First part is related to the observation of learned CJM, Karnal that the prayer for cancellation of anticipatory bail stands dismissed but in the second part, a rider was put by learned CJM, Karnal that the accused persons are directed to not leave the country without seeking prior permission of the Court in future. He further submitted that against the aforesaid second part of the order whereby respondents No.2 & 3 were directed to not to leave the country without seeking prior permission of this Court in future, respondents No.2 & 3 preferred a revision petition before learned Sessions Judge, Karnal which was disposed of by learned Sessions Judge, Karnal vide Annexure P-15 on



20.02.2024. He also submitted that in the aforesaid order, Revisional Court directed that the order of debarring the accused from leaving the country is not sustainable in the eyes of law and the order dated 07.12.2023 passed by learned CJM was set aside to the aforesaid extent and revision petition was allowed. However, learned Sessions Judge, Karnal also directed the learned trial Court to pass a fresh order in view of the observations made above. Thereafter, learned trial Court has not passed any order in pursuance of the directions issued by learned Sessions Court.

6. Learned Counsel for the petitioner further submitted that the petitioner is aggrieved by the aforesaid order passed by learned Sessions Judge, Karnal whereby the second part of the order passed by learned CJM was set aside. He also submitted that once respondents No.2 & 3 were granted regular bail at the time of the presentation of the challan before learned trial Court and even if a specific condition was not imposed by the learned trial Court then there was no bar for learned CJM to have imposed any condition thereafter when the order vide Annexure P-10 was passed by learned CJM and submitted that if at the time of disposal of the application for grant of anticipatory bail filed by the petitioner any further condition was imposed, then it could not have been set aside by learned Revisional Court because it is always within the powers of learned trial Court to have imposed any condition at the time of the disposal of the application for grant of anticipatory bail and therefore, the impugned order passed by learned Sessions Judge, Karnal is liable to be set aside.

7. On the other hand, Mr. S.S. Narula, learned counsel for respondents No.2 & 3 submitted that it is a case where the dispute is a



matrimonial dispute between the parties and the anticipatory bail was granted to respondents No.2 & 3 by learned Additional Sessions Judge, Karnal vide Annexure P-3 on merits and it was observed that the petitioner who is the complainant had left the matrimonial home in the month of August, 2021 and even a divorce petition was also filed by respondent No.3 on 13.07.2022 which is still pending before Family Court, Karnal. He further submitted that the complaint was filed before the police by the petitioner after filing of the divorce petition as a counter blast. Thereafter, the matter was also sent to the Mediation Centre, Karnal but the same had also failed. Learned Additional Sessions Judge, Karnal while granting the anticipatory bail had observed that respondents No.2 & 3 had also assured the Court that all the *stri dhan*/dowry articles if available with them, will return them to the petitioner and they will also join the investigation. It was in this background that learned Additional Sessions Judge granted the anticipatory bail to respondents No.2 & 3 by way of an interim order dated 23.01.2023. Thereafter, the aforesaid order was made absolute vide order dated 14.02.2024 vide Annexure P-4. He further submitted that there is no dispute that respondents No.2 & 3 who are having a business of Rice Export had travelled to abroad and they did not obtain the prior permission for the same when the interim bail was still in operation. He however submitted that thereafter when the challan was presented, respondents No.2 & 3 were granted regular bail by the learned trial Court vide Annexure P-16 on 02.03.2023 in which no such condition was imposed as to whether respondents No.2 & 3 are to seek permission for travelling abroad or not and thereafter, respondents No.2 & 3 had travelled abroad once after grant of



regular bail. He also submitted that once learned trial Court at the time of presentation of challan had granted regular bail to respondents No.2 & 3, the earlier order of grant of anticipatory bail including any condition imposed thereon did not operate and rather ceased to operate. He further submitted that in this way there was no violation of any condition of the regular bail by respondents No.2 & 3. He also submitted that rather the petitioner had challenged the anticipatory bail order passed by Additional Sessions Judge but thereafter she herself withdrew the same. Thereafter a fresh application was filed by the petitioner before learned CJM for cancellation of the anticipatory bail.

8. He further submitted that the anticipatory bail regarding which the petitioner is now stating that the conditions of the anticipatory bail have been violated was granted by learned Sessions Judge vide Annexure P-4 but the same was thereafter challenged before the learned CJM, Karnal after withdrawing the similar application before learned Additional Sessions Judge and submitted that rather learned CJM Karnal would not have any jurisdiction or power to pass any order on the cancellation of bail which was granted by learned Additional Sessions Judge. He submitted that in this way if any further condition was imposed by learned CJM with regard to the directions issued to respondents No.2 & 3 to not leave the country without prior permission of the Court, the same is also without jurisdiction and in this way the aforesaid condition/rider was set aside by learned Revisional Court in accordance with law and learned Revisional Court has rightly set aside the order.

9. Learned counsel for respondents No.2 & 3 also submitted that



rather the petitioner should not have any grievance with regard to the aforesaid impugned order passed by learned Revisional Court because a perusal of the operative part of the order of the aforesaid Court would show that the matter has only been remanded back to learned trial Court for passing a fresh order in view of the observation made by learned Revisional Court and therefore, the present petition filed by the petitioner is also not maintainable because it is against the remand order and therefore the present petition is liable to be dismissed.

10. Learned counsel for respondent No.2 & 3 also submitted that it is a case of matrimonial dispute only and liberty of respondents No.2 & 3 is involved in the present case. The matter is still at the prosecution evidence stage and it is a settled law that in case the bail is granted by a competent Court then any application for cancellation of the bail is filed then the Court must consider the application with abundant caution and must weigh and balance the liberty of an individual *vis-a-vis* the allegation made in the application for cancellation of anticipatory bail. He further submitted that in view of the aforesaid legal position whereby liberty of an individual has to be seen and cannot be curtailed without any cogent reason then the application is also liable to be dismissed.

11. I have heard the learned counsels for the parties.

12. It is a case where the prayer of the petitioner is for challenging the order passed by learned Revisional Court vide Annexure P-15. Respondents No.2 & 3 were granted interim anticipatory bail vide Annexure P-3 with the conditions of compliance of Section 438(2) Cr.P.C. and the aforesaid interim bail was made absolute vide Annexure P-4. Thereafter, at



the time of presentation of challan, respondents No.2 & 3 have also been granted regular bail by the trial Court vide Annexure P-16. The aforesaid order of grant of regular bail is reproduced as under:-

“Challan presented today. It be checked and registered. Accused appeared before the court and filed an application for regular bail. Since he has been on anticipatory bail by the court of Learned Additional Sessions Judge, Karnal, they are directed to furnish bail bonds in the sum of ₹60,000/- each with one surety in the like amount. Requisite bonds furnished which are attested and accepted.

Requisite intimation be sent to the concerned Tehsildar/RTA authority regarding furnishing of the surety by the particular person in favour of the accused to facilitate him to incorporate the entry regarding furnishing of the surety by the surety in the revenue record.

*Copies of challan supplied to accused free of costs.
To come up on 14.08.2023 for consideration on charge.*

*Sd/-
CJM-cum-ACJ(SD)
Karnal. 02.03.2023
(UID No.HR-0261)”*

13. A perusal of the aforesaid order would show that respondents No.2 & 3 have been granted regular bail with a direction to furnish fresh bail bonds. The petitioner instead of making any application before learned trial Court for modification of the aforesaid order or for imposing any condition for seeking debarment of respondents No.2 & 3 from travelling abroad because of any apprehension had instead moved an application for cancellation of anticipatory bail. Learned trial Court while considering the



aforesaid application had also observed that once respondent No.2 has already been granted regular bail then there was no occasion for trial Court to have considered the application for grant of cancellation of anticipatory bail. This Court is also of the considered view that once the respondents No.2 & 3 have been granted regular bail which has not been challenged at all by the petitioner in any Court of law then no such occasion would have arisen in favour of the petitioner to have moved an application for cancellation of anticipatory bail which ceased to operate at the time when the regular bail was granted by learned trial Court.

14. Even otherwise also a perusal of the impugned order passed by learned Revisional Court would show that the condition which was imposed by learned trial Court at the time of disposing of the application for cancellation of the anticipatory bail, an additional condition was imposed with regard to getting permission for travelling abroad. Learned Revisional Court has only set aside the aforesaid and has only remanded the case to learned trial Court to pass a fresh order although as per learned counsels for parties, no fresh order has been passed in the present case. Therefore, there was no occasion for the petitioner to have filed the present petition for challenging the aforesaid order passed by learned Revisional Court and instead ought to have waited for learned trial Court to have passed a fresh order in accordance with the directions issued by learned Revisional Court.

15. Even otherwise also the law with regard to cancellation of anticipatory bail is well settled. Hon'ble Supreme Court in "Neeru Yadav Vs. State of U.P.", 2015(1) R.C.R. (Criminal) 311 dealt with the proposition of law with regard to the cancellation of bail. The relevant portion of the



aforesaid judgment of Hon'ble Supreme Court is reproduced as under:-

“16. The issue that is presented before us is whether this Court can annul the order passed by the High Court and curtail the liberty of the 2nd respondent. We are not oblivious of the fact that the liberty is a priceless treasure for a human being. It is founded on the bed rock of constitutional right and accentuated further on human rights principle. It is basically a natural right. In fact, some regard it as the grammar of life. No one would like to lose his liberty or barter it for all the wealth of the world. People from centuries have fought for liberty, for absence of liberty causes sense of emptiness. The sanctity of liberty is the fulcrum of any civilized society. It is a cardinal value on which the civilisation rests. It cannot be allowed to be paralysed and immobilized. Deprivation of liberty of a person has enormous impact on his mind as well as body. A democratic body polity which is wedded to rule of law, anxiously guards liberty. But, a pregnant and significant one, the liberty of an individual is not absolute. The society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the collective and to the societal order. Accent on individual liberty cannot be pyramided to that extent which would bring chaos and anarchy to a society. A society expects responsibility and accountability from the member, and it desires that the citizens should obey the law, respecting it as a cherished social norm. No individual can make an attempt to create a concavity in the stem of social stream. It is impermissible. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly things which the society disapproves, the legal consequences



are bound to follow. At that stage, the Court has a duty. It cannot abandon its sacrosanct obligation and pass an order at its own whim or caprice. It has to be guided by the established parameters of law.”

16. Whenever any application for cancellation of anticipatory bail is filed then it is the duty of the Court to weigh and make a balance between the liberty of an individual and the allegations so made in the application for cancellation of anticipatory bail. In the present case, the petitioner is challenging the violation of the conditions of the anticipatory bail whereas respondent No.2 & 3 have already been granted the regular bail at the time of presentation of challan and therefore, this Court is of the considered view that learned CJM has rightly dismissed the application for cancellation of anticipatory bail and learned Revisional Court has also rightly set aside the additional condition which was imposed by learned trial Court and the matter was remanded back to learned trial Court for making a fresh decision in accordance with law. The relevant part of the order passed by learned Revisional Court is also reproduced as under:-

“15. As per section 438(2) of Cr.P.C when the High Court or court of Sessions makes a direction in sub section (1) or section 438, i.e. an interim order for grant of anticipatory bail has been passed, the court may include any other condition including the conditions laid down in section 438(2) Cr.P. Order under section 438(1) is passed before the final disposal of petition by the court, but the court of Sh. Anil Kumar, learned ASJ, Karnal also made order of making interim order as absolute on the term and conditions, imposed through interim order. The purpose of this was to give liberty to



the investigating officer to investigate the matter properly, in which cooperation of accused be required regularly. Further, in view of section 437 of Cr.P.C, when any person accused of, or suspected of, the commission of non bailable offence, appears before the court, he may be released on bail. In this case also, the court below released the accused on bail. As per section 437, court may ask the accused to comply with the directions, as deemed appropriate by the court. But in this case the directions were not given at the time of granting bail to the accused.

16. In view of above circumstances, the order of debarring the accused from leaving the India is not sustainable in the eyes of law. The impugned order is therefore, set aside to the extent discussed above. The present revision is allowed. Learned trial court is directed to pass fresh order in view of this observation. Lower court record alongwith the copy of this judgment be sent back. File be consigned to records after due compliance.”

17. Consequently, finding no merit in the present petition, the same is hereby dismissed.

08.01.2025

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

1. Whether speaking/reasoned:	Yes/No
2. Whether reportable:	Yes/No