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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-15106-2025

Decided on : 20.03.2025

Kiran Talwar

... Petitioner

Versus

State of Union Territory, Chandigarh and another

... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Baljeet Beniwal, Advocate
for the petitioner

Mr. Viren Sibal, APP for U.T. Chandigarh

KIRTI SINGH, J. (Oral)

The instant petition under Section 483(3) of BNSS read with Section 528 of BNSS has been filed seeking cancellation of anticipatory bail granted to respondent No.2 in case FIR No.157 dated 31.12.2024 under Sections 328, 376(2)(n) IPC and Section 67 of IT Act, 2000 registered at Police Station, Sector 11, Chandigarh vide impugned orders dated 21.01.2025 (Annexure P/2) and 24.01.2025 (annexure P/3) passed by the Judge, Fast Track Special Court, Rape and POCSO cases, Chandigarh.

2. The brief facts as culled out from the present FIR are that prosecutrix got acquainted with accused/respondent No.2 when she participated in a NSS programme from 27.10.2022 to 31.10.2022 where the accused was the training associate. On 02.11.2022, the accused called the prosecutrix and on the pretext of signing some documents, took her to his friends room where he offered her cold drink allegedly laced with some intoxicant and forcefully developed sexual



relations with her. He also captured objectionable photos/videos of the prosecutrix, using which he blackmailed and threatened her into having physical relations with him.

3. Learned counsel for the petitioner submits that serious and specific allegations of rape and blackmail have been levelled against the petitioner, which could not be reported earlier by the petitioner out of fear. He, therefore, submits that the anticipatory bail granted to the petitioner deserves to be cancelled.

4. Heard learned counsel for the petitioner. After perusing the record with his able assistance, this Court finds no force in the arguments advanced by learned counsel for the petitioner. The present petition is decided *in limine* in order to save litigation cost of the private respondents and also to save the judicial time of the Court.

5. Perusal of the record shows that there is a long delay of two years from the when the alleged offence first took place. The learned trial Court while admitting respondent No. 2 herein on anticipatory bail, duly recorded contentions of either side, as is reflective from the order dated 21.01.2025. However, the consideration which weighed in heavy before the learned trial Court while granting respondent No. 2 herein interim anticipatory bail, was that the prosecutrix was a well qualified professional, aged 42 years, and yet no legal recourse was adopted to take action against the allege offence of exploitation. Further, it was only after respondent No. 2 joined and cooperated in the investigation that his application for anticipatory bail was allowed on 24.01.2025.

6. As per the settled proposition of law, once bail has been granted, it would require cogent and overwhelming circumstances for its cancellation. The order granting bail can only be revoked by the Superior Court while granting the



said concession ignored the relevant material available on record, as has been observed by Hon'ble Supreme Court in ***Vipin Kumar Dhir Vs. State of Punjab, 2021 SCC Online SSC 854.***

7. In ***Ms. X vs The State of Telangana (2018) 16 SCC 511***, Hon'ble Supreme Court held that:

“In a consistent line of precedent this Court has emphasised the distinction between the rejection of bail in a non-bailable case at the initial stage and the cancellation of bail after it has been granted. In adverting to the distinction, a Bench of two learned Judges of this Court in Dolatram v State of Haryana [(1995) 1 SCC 349)] observed that:

“Rejection of a bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. (Generally speaking, the grounds for cancellation of the bail, already granted, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion of attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.”

*These principles have been reiterated by another two Judge Bench decision in Central Bureau of Investigation, **Hyderabad v***



Subramani Gopalakrishnan (2011) 5 SCC 296 and more recently in Dataram Singh v State of Uttar Pradesh (2018) 3 SCC 22:

“It is also relevant to note that there is difference between yardsticks for cancellation of bail and appeal against the order granting bail. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail already granted. Generally speaking, the grounds for cancellation of bail are, interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concessions granted to the accused in any manner. These are all only few illustrative materials. The satisfaction of the Court on the basis of the materials placed on record of the possibility of the accused absconding is another reason justifying the cancellation of bail. In other words, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.”

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. Learned counsel for the petitioner has not been able to indicate any reasons necessitating cancellation of bail to respondent No. 2. 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.

10. 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 orders dated 21.01.2025 (Annexure P-2) and 24.01.2025 (Annexure P/3) or demonstrate any conduct on the part of respondent No.2, that would warrant interference by this Court.

11. In view of the aforesaid and in light of the judgments cited herein



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above, the petition is dismissed.

12. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

March 20, 2025
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No