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GURJEET KAUR v. STATE OF PUNJAB

[punjab and haryana](#) HIGH COURT

Before: Manjari Nehru Kaul, J.

GURJEET KAUR - Petitioner,

Versus

STATE OF PUNJAB and others - Respondents.

CRM-M-33710 of 2021

(i) [crpc s. 438](#), 439(2) - [bail](#) - Cancellation of - Once bail has been granted, the Courts should act with great circumspection in cancelling it unless, of course, some material is brought to the notice of the Court that the accused has breached the conditions of bail imposed upon them or a perverse order has been passed while granting the concession of bail. [Para 5]

(ii) CrPC S. 438, 439(2) - Bail - Accused had joined investigation - Dowry articles not recovered - An [fir](#) registered under Section 498-A, 406 of IPC and all subsequent proceedings arising out of them, cannot be converted solely into recovery proceedings - Allegations of entrustment and misappropriation of dowry articles being disputed questions of fact, cannot be looked into by the Court while deciding a petition under Section 438 Cr.P.C. and would be appreciated only when [evidence](#) is adduced by the respective parties before the trial - [anticipatory bail](#), which has been granted to the accused cannot be cancelled simply because of the non-recovery of dowry articles. [Para 6]

Ms. Prabhjot Kaur, for the petitioner(s). *Ms. Jaspreet Kaur*, AAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL) - (16.11.2021) - By way of present petition filed under Section 439(2) Cr.P.C., petitioner is seeking cancellation of anticipatory bail granted to respondents No.2 & 3, vide impugned orders dated 30.06.2021 (annexed as Annexures P-4 & P-4, respectively) by the trial Court in case FIR No. 28, dated 03.05.2021, under Sections 406, 498-A of IPC, registered at Police Station Women, Patiala.

2. Learned counsel contends that the petitioner was subjected to mental and physical harassment by the accused including the private respondents No.2 & 3, who happen to be her parents in-law, as they were unhappy with the dowry given at the time of her [marriage](#) with their son. It has also been submitted that whatever dowry was given to the petitioner at the time of her marriage was misappropriated by all the accused including respondents No.2 & 3.

3. It has, therefore, been urged by the learned counsel, that while passing the impugned orders dated 30.06.2021 (Annexures P-4 & P-5), the learned trial Court gravely erred in ignoring the fact that the recovery of gold jewelry, cash as well as other household articles which were given at the time of the petitioner's marriage, had not been effected. It was submitted that in the said regard, the learned [public prosecutor](#) on instructions of the Investigating Agency had duly apprised the trial Court, however, the trial Court still extended the concession of anticipatory bail to respondents No.2 & 3.

4. I have heard learned counsel for the petitioner and perused the impugned orders dated 30.06.2021 (Annexures P-4 & P-5) as well as the material on record.

5. Once bail has been granted, the Courts should act with great circumspection in cancelling it unless, of course, some material is brought to the notice of the Court that the accused has breached the conditions of bail imposed upon them or a perverse order has been passed while granting the concession of bail.

6. Coming to the case in hand, a perusal of the impugned orders (Annexures P-4 & P-5) reveals that pursuant to the [interim order](#) dated 16.06.2021, both respondents No.2 & 3 had joined investigation. Though, it was submitted by the Public Prosecutor that recovery of all dowry articles had not been effected from the respondents, however, it would not be out of place to observe that an FIR registered under Section 498-A, 406 of IPC and all subsequent proceedings arising out of them, cannot be converted solely into recovery proceedings. Moreover, the allegations of entrustment and misappropriation of dowry articles of the petitioner being disputed questions of fact, cannot be looked into by the Court while deciding a petition under Section 438 Cr.P.C. and rather would be appreciated only when evidence is adduced by the respective parties before the trial Court during trial. Hence, the cancellation of anticipatory bail, which has been granted to the accused/respondents No.2 & 3, cannot be cancelled simply because of the non-recovery of dowry articles.

7. Apart from this, learned counsel for the petitioner has also not been able to bring to the notice of this Court any violation of the conditions of bail imposed upon respondents No.2 & 3 vide the impugned orders dated 30.06.2021 (Annexures P-4 & P-5).

8. This Court does not find any perversity, much less, illegality in the impugned orders dated 30.06.2021 (Annexures P-4 & P-5). Petition stands dismissed accordingly.

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