PETITIONER:
Dolat Ram & Ors.

Vs.

RESPONDENT:
The State of Haryana

DATE OF JUDGMENT11/11/1994

BENCH:
A.S. ANAND & M.K. MUKHERJEE, JJ.

ACT:

HEADNOTE:

JUDGMENT:
1. Leave granted.
2. In a case arising out of FIR No. 735 dated 8.11,1993, relating to the alleged dowry death of Smt. Sunita - wife of Anil Kumar, the learned Additional Sessions Judge, Rohtak granted anticipatory bail to the parents and the brother of 'the husband of the deceased Smt. Sunira and directed that they be released on bail on their furnishing bail bonds in the sum of Rs. 10,000/- each with one surety each of the like amount in the event of their arrest to the satisfaction of the Arresting Officer. No bail has however been granted to the husband - Anil Kumar. The State of Haryana filed a petition in the High Court of Punjab and Haryana seeking cancellation of the anticipatory bail, granted to the appellants by the Additional Sessions Judge, Rohtak on November 12, 1993. The learned Single Judge of the High Court by its order dated 8.9.1994, cancelled the bail observing:

> "Dowry death is a serious matter and cannot be taken so lightly. No positive finding has been recorded by the Addl. Session Judge in his order to the effect that the respondents and the deceased were living separately. No prima-facie case is made out which could justify the grant of anticipatory bail. To my view of thinking, concession of anticipatory bail granted by the Addl. Sessions Judge, was totally uncalled for. The order dated November 12, 1993 is, therefor, set aside and the respondents are directed to be taken into custody."

The appellants are aggrieved of the cancellation of the anticipatory bail, granted to them. Hence this appeal.
3. It appears to us that whereas the learned Additional Sessions Judge was not justified in observing in the last paragraph of his order while granting anticipatory bail "it appears that possibly these accused applicants have been roped in falsely", at that initial stage, when possibly the investigation was not even completed let alone, any evidence had been led at the trial, the High Court also fell in error in cancelling the anticipatory bail granted to the

appellants for the reasons, which have been extracted by us above. The learned Additional Sessions Judge had noticed that even according to the statement in the FIR, the appellants were living separately from the deceased and her husband and that the factum of separate residence was also supported by the ration card. These considerations were relevant considerations for dealing with an application for grant of anticipatory bail.

4. Rejection of 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
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cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) 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 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. Flowever, 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, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors. relevant for rejecting bail in a non-bailable ease in the first instance and the cancellation of bail already granted.

5. We are, therefore, satisfied that the cancellation of anticipatory bail granted to the appellants, for the reasons given by the High Court, was not justified. Nothing has been brought to our notice either from which any inference may possibly be drawn that the appellants have in any manner, whatsoever, abused the concession of bail during the intervening period.

6. We, accordingly, allow this appeal, set aside the impugned order of the High Court and restore that of the learned Additional Sessions Judge, Rohtak dated 12the November, 1993.
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