

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

CRM-M-15026-2014 (O&M)

Date of decision: 03.12.2015

Balwinder Singh

... Petitioner

Vs.

Asha Rani and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Amar Ashok Pathak, Advocate
for the petitioner.

Mr. Naveen Sharma, Advocate for
Mr. K.S. Sidhu, Advocate
for respondents No.1 & 2.

Mr. Daljit Singh Virk, AAG, Punjab.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioner, by way of instant petition under Section 439 (2) read with Section 482 of the Code of Criminal Procedure, seeks cancellation of anticipatory bail granted by the learned Additional Sessions Judge in favour of respondents No.1 & 2 in FIR No.4 dated 15.03.2014 under Sections 406, 420, 34 IPC, registered at Police Station NRI Ludhiana.

Notice of motion was issued.

Learned counsel for the petitioner submits that the learned Additional Sessions Judge exceeded his jurisdiction, while passing the impugned order, thereby granting the concession of anticipatory bail to respondents No.1 & 2-accused for which they were not entitled in law. He further submits that the accused have defrauded the petitioner for a huge amount and this material aspect of the matter was not properly appreciated

by the learned Additional Sessions Judge, while passing the impugned order. Learned counsel for the petitioner would next contend that granting of anticipatory bail was the extraordinary relief and the same could not have been granted in favour of the accused-respondents without appreciating the true factual as well as legal aspect of the matter. However, since the learned Additional Sessions Judge has miserably failed to appreciate the true facts of the case, the impugned order has resulted in miscarriage of justice and liable to be set aside. He prays for setting aside the impugned order, by allowing the present petition.

On the other hand, learned counsel for the State as well as learned counsel for the accused-respondents No.1 & 2 submit that the learned Additional Sessions Judge has not exceeded his jurisdiction nor he has committed any error of law, while passing the impugned order and the same deserves to be upheld. Learned counsel for the State further submits that after passing of the impugned order dated 21.03.2014 (Annexure P-9) by the learned Additional Sessions Judge, accused-respondents No.1 & 2 joined the investigation and cooperated with the investigating agency. Investigation was conducted and after completion thereof, report under Section 173 (2) Cr.P.C. has already been presented to the learned Court of competent jurisdiction. Thereafter, even charge has been framed against the accused and the trial is going on. They pray for dismissal of the present petition.

After hearing learned counsel for the parties at considerable length, going through the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that instant one has not been found to be a fit case, warranting

interference at the hands of this Court, while exercising its jurisdiction under Section 439 Cr.P.C. read with Section 482 Cr.P.C., for the following more than one reasons.

It is a matter of record that after passing of the impugned order granting the concession of anticipatory bail, accused-respondents No.1 & 2 have joined the investigation and cooperated with the investigating agency. The dispute pertains to sale purchase of a property between the parties. After completion of the investigation, challan has already been presented and thereafter, even charge has been framed against respondents No.1 & 2. The accused-respondents are facing the criminal trial. It is not even the argued case on behalf of the petitioner that the accused-respondents have ever misused the concession of anticipatory bail granted to them by the learned Additional Sessions Judge, by passing the impugned order. In this view of the matter, no case for interference has been made out.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or jurisdictional error in the impugned order passed by the learned Additional Sessions Judge, whereby accused-respondents were granted the concession of anticipatory bail.

In view of what has been discussed hereinabove, no case for cancellation of anticipatory bail has been made out.

Dismissed.

[RAMESHWAR SINGH MALIK]
JUDGE

03.12.2015
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