

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.3663 of 2015
and
Criminal Misc. No.M-41330 of 2013

.....

Date of decision:2.2.2015

Rajesh Kumar Sharma

...Petitioner

v.

State of Punjab and another

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Ashok Singla, Advocate for the petitioner.

Mr. S.S. Chandumajra, Deputy Advocate General, Punjab for
the respondent-State.

Mr. S.K. Monga, Advocate for respondent No.2.

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Inderjit Singh, J.

Cr. Misc. No.3663 of 2015:

For the averments made in the criminal miscellaneous
application, the reply of respondent No.2 is taken on record subject to all
just exceptions.

The criminal miscellaneous application stands disposed of.

Cr. Misc. No.M-41330 of 2013:

The petitioner-complainant has filed this petition under
Section 439(2) read with Section 482 Cr.P.C for cancellation of

anticipatory bail granted to respondent No.2 vide order dated 13.6.2012 (Annexure-P.1) passed by learned Additional Sessions Judge, Mohali in case FIR No.58 dated 11.4.2012 registered for the offences under Sections 420, 467, 471 and 120-B IPC at Police Station Dera Bassi, District Mohali as the same has erroneously been granted by the learned lower Court taking into consideration irrelevant factors.

Notice of motion has been issued in this case.

Mr. S.S. Chandumajra, learned Deputy Advocate General, Punjab has put in appearance on behalf of the respondent-State and Mr. S.K. Monga, learned Advocate has appeared on behalf of respondent No.2 and contested this petition.

I have heard learned counsel for the petitioner as well as learned Deputy Advocate General, Punjab appearing for the respondent-State and learned counsel for respondent No.2 and have gone through the record.

A perusal of the order shows that Sanjiv Malik and Raj Shree Malik, accused-respondents filed anticipatory bail application against the State of Punjab, which was decided by the learned Additional Sessions Judge, Mohali on 13.6.2012 by holding that the accused have already joined the investigation and they are not required for custodial interrogation. The learned Additional Sessions Judge also discussed that almost on the similar allegations earlier FIR was registered in which the petitioners were granted anticipatory bail by the High Court. The Court also discussed that now second FIR has been registered merely on the

allegation that the petitioners have executed power of attorney dated 5.4.2010 also on the basis of the resolution. In fact the said power of attorney dated 5.4.2010 had been executed prior to the registration of the previous FIR.

Learned counsel for the petitioner today argued that the private respondents were required for custodial interrogation as the general power of attorney is to be recovered from them and the Court has wrongly granted the anticipatory bail that they are not required for custodial interrogation.

As brought to my notice, the challan in this case has already been presented and the charges are yet to be framed. As the investigation is already complete and the challan has already been presented in the Court, therefore, the private respondents are not required for custodial interrogation. Otherwise also, the case is based on documentary evidence and custodial interrogation is not required. Moreover, the State has not filed the petition for cancellation of bail by stating that the petitioners are required for custodial interrogation. There is nothing argued that the private respondents are tampering with the evidence or misusing the concession of anticipatory bail.

As already discussed, the challan has been presented by the prosecution and the private respondents are simply to face the trial. Therefore, no ground is made out to cancel the anticipatory bail granted to the private respondents.

Therefore, finding no merit in the criminal miscellaneous

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petition, the same is dismissed.

February 2, 2015.

(Inderjit Singh)
Judge

hsp