

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

CRM No.M-4131 of 2015

Date of decision: 04.08.2015

Baljinder Pal Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Ms. P.K. Deol, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab
assisted by Addl. CP Ellanchezian and
SI Navdeep Singh.

Mr. R.S. Bajaj, Advocate for respondent No.2.

Jitendra Chauhan, J. (Oral)

By filing the present petition under Section 439 (2) of the Code of Criminal Procedure, the petitioner has sought cancellation of bail granted by this Court, vide order dated 19.01.2015 (Annexure P-12) in case FIR No. 228 dated 16.09.2011, registered under Sections 420, 465, 467, 468 and 471 IPC, at Police Station Division No.7, Jalandhar.

Affidavit of DCP filed in the Court is taken on record.

Brief facts of the case are that after the bail petition of respondent No.2 was declined by this Court, vide order dated

27.04.2012, the respondent No.2 made representation to the authorities seeking reinvestigation of the matter. On the application moved by respondent No.2, the investigation was carried out by Sh. Sukhdev Singh, District Community Police Officer, Jalandhar. During reinvestigation of the matter, the respondent No.2 was found innocent and on the recommendation of Sukhdev Singh, he was put in column No.2 of the supplementary report prepared under Section 173 Cr.P.C., which was submitted to the learned Court on 05.12.2014. After filing of the supplementary challan, the respondent No.2 approached this Court for grant of bail on the ground that the cancellation report has already been prepared by DCPO, Jalandhar and the said cancellation report was approved by the competent authority. Considering the fact that the State had already filed the cancellation report on the basis of inquiry conducted by DCPO Sukhdev Singh, this Court dismissed the petition by observing that in case the respondent No.2 (petitioner therein) appears before the trial Court within one week from the date of passing of the order, he shall be admitted to bail on furnishing fresh bail bonds/surety bonds to its satisfaction.

It is contended by the learned counsel for the petitioner that respondent No.2 has misused the concession of bail granted by this Court by concealing the material facts from the Court. He has been continuously threatening the petitioner. The State has already

moved an application to withdraw the supplementary challan filed against the petitioner on the basis of which he was exonerated. A Departmental inquiry has also been conducted against the police officer, Sukhdev Singh, who had conducted the inquiry and exonerated the respondent No.2. Therefore, keeping in view the changed circumstances, the present petition deserves to be allowed.

On the other hand, the learned counsel for the respondent No.2 states that the petitioner has been regularly appearing before the trial Court and has never misused the process of the Court.

I have heard learned counsel for the parties and perused the record.

Though the petition bearing CRM-M No. 1859 of 2015 for quashing the impugned order dated 27.10.2014, vide which the respondent No.2 was declared a proclaimed offender, was dismissed by this Court, however the order, vide which the petitioner was directed to appear before the trial Court, was passed keeping in view the report of District Community Police Officer, namely Sukhdev Singh, which after reinvestigation was found to be against the record and a further enquiry was ordered.

In **Dolat Ram and others** Vs. **State of Haryana**, JT 1995(1) S.C. 127, it has been held that the bail granted to the accused should not be cancelled in a mechanical manner. There is no quarrel with the proposition of law as laid down by the Hon'ble

Supreme Court. The consideration for the cancellation of bail are totally different than the one for granting the bail. Such considerations should be weighty and strong, leaning towards the prosecution and the injuries suffered by the aggrieved party.

No material or circumstance has been brought to the notice of this Court, which could be a ground to cancel the bail. There is no allegation that respondent No.2 has influenced the process of the Court or intimidated the petitioner. The order dated 19.01.2015 was passed in the background of peculiar facts and circumstances projected before this Court at the relevant time. Otherwise also, the main petition preferred by the respondent No.2 was dismissed by this Court, vide order dated 19.01.2015.

In the circumstances, no case for interference is made out.

Dismissed.

04.08.2015

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(JITENDRA CHAUHAN)
JUDGE