

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-5426 of 2015 (O&M)

Date of Decision: 20.07.2015

Jeevan Kumar

--Petitioner

Versus

State of Punjab & another

--Respondents

CORAM:-HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. D.S. Kahlon, Advocate for the petitioner.

Mr. Nikhil K. Chopra, D.A.G., Punjab.

Mr. R.S. Manhas, Advocate for respondent no.2.

TEJINDER SINGH DHINDSA.J

The instant petition has been filed under Section 439 (2) Cr.P.C read with section 482 Cr.P.C seeking cancellation/setting aside of the concession of anticipatory bail granted to respondent no.2 Dinesh Raj vide order dated 29.1.2015, passed by learned District & Sessions Judge, Pathankot pertaining to case F.I.R No. 72 dated 7.12.2014 under Section 304 I.P.C registered at Police Station, Sadar Pathankot, District Pathankot.

Counsel for the petitioner/complainant would vehemently argue that the allegations against the accused/respondent no.2 are very serious in nature and in which on 6.12.2014 Tirath Ram (since deceased) had been physically assaulted and which led to his falling down and upon having removed to the hospital, he expired. Counsel would submit that the precise allegation against the accused was that he had shaken Tirath Ram (deceased) by the neck and even as per opinion of the doctor recorded in the Post Mortem Report, there was fracture of two vertebra and the death could have been due to such fracture. Further argument raised is that the order dated 29.1.2015 granting concession of pre-arrest bail to the accused, if,

read in totality virtually amounts to an order of acquittal. Furthermore, a contention has been raised by adverting to the documents placed on record at Annexures P-7 and P-8 that the accused /respondent no.2 even after grant of concession of anticipatory bail has misused such concession inasmuch as on 4.2.2015 during the late evening hours accused had entered the house of the complainant and threatened members of the family to withdraw the case.

Counsel for the parties have been heard.

This Court is of the considered view that no basis for cancellation of anticipatory bail already granted to the accused/respondent no.2, is made out.

Learned State counsel, who is upon instructions from S.I Kashmir Singh would submit that the complaints lodged by the present petitioner at Annexures P-7 and P-8 had been inquired into and the allegations contained therein were found to be false. That apart, it has gone uncontroverted that investigation in the present case is complete and the challan was presented on 9.7.2015 and now the case is fixed for framing of charges before the Trial Court on 27.7.2015.

It is not a case where any recovery is to be effected from the accused/respondent no.2. Clearly the accused had associated with the investigation which has ultimately been completed and thereafter challan has been presented.

No basis for interference is made out. Petition, accordingly, is dismissed.

It is, however, made clear that the observations contained in the order dated 29.1.2015, passed by the learned District & Sessions Judge, Pathankot granting the concession of anticipatory bail to the accused/respondent no.2 would have no bearing on the merits of the case.

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

20.07.2015