

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 201

Criminal Miscellaneous No.M-13702 of 2016 (O & M)
Date of Decision: September 16, 2016

Lalit Gupta

..... PETITIONER

VERSUS

Yatish Kumar Goel & another

..... RESPONDENTS

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CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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PRESENT: - Mr. Deepender Singh, Advocate, for the petitioner.

Mr. Sudhir Mittal, Advocate, for respondent No.1.

Ms. Harpreet Kaur, Assistant Advocate General,
Haryana, for respondent No.2 – State.

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Jaspal Singh, J

1. The instant petition has been preferred under Section 439(2) Cr.P.C. read with Section 482 Cr.P.C. for cancellation of anticipatory bail granted to respondent No.1 by this Court vide order dated August 4, 2015 (Annexure P-4) in Criminal Miscellaneous No.M-31181 of 2014 in case FIR No.244 dated June 19, 2014 under Sections 419, 420, 467, 468, 471 & 384 IPC, registered at Police Station, Udyog Vihar, District Gurgaon, inter-alia, on failure to comply with directions imposed by this court while granting anticipatory bail.

2. Learned counsel for the petitioner has contended that respondent No.1 has not fully complied with the conditions imposed by this

Court vide order dated August 4, 2015. He was directed to give his specimen signatures and hand-writing running into two pages for comparison thereof with the questioned signatures. Though, respondent No.1 appeared before the Magistrate and gave handwriting running into two pages as well as his name in block letters but did not give his 'specimen signatures'. The specimen signatures were required as they had to be compared with the questioned signatures on the notice which was received by him and his other family members in the name of Delhi Police. These notices, as per the allegations of petitioner, were forged and fabricated by respondent No.1. Accordingly his specimen signatures were relevant for investigation.

3. This court has given a deep thought to the submissions made by learned counsel for the petitioner and gone through the record available.

4. Petitioner was granted the concession of interim bail by this Court vide order dated August 04, 2015 subject to conditions as envisaged under Section 438(2) Cr.P.C. and with direction to appear before the concerned jurisdictional Magistrate on August 13, 2015 or any other date convenient to the court for giving specimen signatures and hand-writing running into two pages for comparison thereof with the questioned signatures and on failure to comply with it, prosecution shall be at liberty to move this court for cancellation of bail.

5. A perusal of reply by way of affidavit of Assistant Commissioner of Police - Inderjit Singh, HPS, Udyog Vihar, Gurgaon, reveals that respondent No.1 appeared before the Magistrate on September 7, 2015 but did not comply with the directions as given in order dated August 4, 2015. He simply wrote the words 'CK Sharma', that too, not in the form of signature. He only wrote about 15 lines.

6. It is a settled proposition of law that the court which has granted bail has also the powers to cancel the same and discretion of grant or cancellation of bail can be exercised either at the instance of public prosecutor or complainant, on account of mis-use or abuse of indulgence by the accused. In the case in hand, respondent No.1 was specifically directed to give specimen signatures and hand-writing running into two pages for comparison thereof with the questioned signatures, which he has not complied with in toto, as is evident from the reply filed on behalf of respondent No.2 – State. Accordingly, this court is of the considered view that respondent No.1 has violated the conditions imposed by this court while granting the concession of interim bail, which can be termed as mis-use or abuse of the indulgence of benefit granted by this court.

7. Moreover, earlier also, he was granted the concession of interim bail vide order dated August 13, 2014 by the Additional Sessions Judge, Gurgaon and was directed to appear before the Investigating Officer on or before August 20, 2014 and Investigating Officer was also directed to give his report on September 1, 2014. On the next date of hearing i.e. September 1, 2014, Investigating Officer appeared in the court and filed his reply to the effect that notice under Section 160 Cr.P.C. was issued to respondent No.1 to appear on August 28, 2014 before learned Illaqa Magistrate to give his specimen signatures but he did not appear. Accordingly, the court below opined that applicant did not co-operate with the Investigating Officer and did not comply with the order passed the court vide order dated August 13, 2014. Thus, order dated August 13, 2014 vide which respondent No.1 was granted the concession of interim bail, was vacated and his bail application under Section 438 Cr.P.C. was dismissed.

8. In the light of what has been discussed above, this court is of the considered view that respondent No.1 has abused the process of law, in as much as, did not comply with the conditions imposed by this court vide order dated August 4, 2015. Accordingly, the instant petition is allowed and bail granted to respondent No.1 vide order dated August 4, 2015 is cancelled.

September 16, 2016
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No