

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

101

CRM-M-1658-2016

Date of Decision: February 29, 2016

BALWINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE M.M.S.BEDI

Present: Mr.Sarju Puri, Advocate for the petitioner.

M.M.S.BEDI, J.(Oral)

In cross-version respondent Nos.2 to 5 have been granted the concession of pre-arrest bail.

Grievance of the petitioner is that the bail has been granted on irrelevant and erroneous consideration and that respondent Nos.2 to 5 often hurl threats to cause harm to the petitioner.

I have considered the averments made in the petition and I am of the opinion that as per provisions of Section 439 (2) of the Code of Criminal Procedure the application is maintainable before the Sessions Court. Even otherwise, I am not satisfied that respondent Nos.2 to 5, have misused their liberty.

Counsel for the petitioner has relied upon judgment of the Hon'ble Division Bench in **State of Punjab vs Jagjit Singh Chahal 2015(4) RCR (Criminal)** in support of this contention that when the bail has been granted the same can be sought to be cancelled, if the bail is granted on the basis of irrelevant material or overlooking the relevant material.

I have considered the contention of counsel for the petitioner in context to the merits of this Court. The judgment referred to by counsel for the petitioner appears to be not applicable to the benefit of the petitioner as the parameters which have been observed in the said Division Bench

judgment for cancellation of bail granted to an accused are like this:

- i) the accused has resumed illegal activities and thus misused his liberty;
- ii) he has interfered with the course of investigation;
- iii) there are attempts to tamper with evidence or witnesses;
- iv) the accused threatens witnesses or attempts to hamper smooth investigation;
- v) there is likelihood of his fleeing to other country;
- vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency; and
- vii) attempts to place himself beyond the reach of his surety etc.

Though it has been observed that these grounds are illustrative and are not exhaustive but none of the conditions are applicable in the present case. No ground for cancellation of bail is thus made out.

The petition is dismissed as not maintainable without prejudice to the right of the petitioner to avail alternative remedy under Section 439(2) of the Code of Criminal Procedure, available to him.

February 29, 2016
rka/TSG

(M.M.S.BEDI)
JUDGE