

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-33474 of 2015 (O&M)
Date of Decision: February 19, 2016

Paramvir Bhalla

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

1. To be referred to the Reporters or not? **YES**
2. Whether the judgment should be reported in the Digest? **YES**

Present: Mr.Naresh Jain, Advocate
for the petitioner.

Mr.Himmat Singh, Deputy Advocate General, Haryana
for the respondent-State.

Mr.Sandeep Sharma, Advocate for
Mr.Vivek Goyal, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of order dated 25.09.2015 passed by learned Sessions Judge, Panchkula in case No.524/2015 instituted on 26.08.2015 in case FIR No.299 dated 15.07.2014 under Sections 406, 420, 468, 471 and 120-B IPC, Police Station Sector-5, Panchkula.

Notice of motion was issued in this case and learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that learned JMIC, Panchkula as Duty Magistrate, vide order dated 15.06.2015 granted bail to the accused by giving reasoning that accused has been in custody since 20.05.2015. The trial of the case likely to take a long time, no useful purpose would be served by detaining the accused any further in custody. The facts of the case as stated in the order Annexure P-6 passed by learned JMIC, Panchkula are that the dispute is regarding some agreement to sell in which ₹1,60,000/- as earnest money was paid. On 06.06.2013, complainant visited HUDA and inquired about the status of NOC/permission etc. regarding the house and came to know that no application had been submitted for grant of NOC and on enquiry, the complainant came to know that mother of accused Paramvir Bhalla was the owner of the house and he was cheated.

An application was filed before learned Sessions Judge, Panchkula and learned Sessions Judge, Panchkula vide order dated 25.09.2015, cancelled the bail.

As per the record, only two grounds have been mentioned in the application; firstly that accused has concealed the fact that bail application of the co-accused has already been rejected by learned Chief Judicial Magistrate, Panchkula being Illaqa Magistrate as well as by Sessions Court and the second point is that the Judicial Magistrate Ist Class was Duty Magistrate.

From the record, I find that the bail cannot be cancelled on

both the above-mentioned grounds. It is nowhere mandatory for the accused side to tell the status of the bail application of co-accused. The accused may not be knowing even that bail application of the co-accused has been dismissed. Otherwise also, the accused is only to tell the facts regarding his earlier bail applications etc. Therefore, on this ground, the order dated 25.09.2015 passed by learned Sessions Judge, Panchkula is not as per law.

As regarding second ground that the bail has been granted by the Duty Magistrate, I find that there is no bar to grant the bail by the Duty Magistrate. The Duty Magistrate during the summer vacations or on holidays, has every right to grant the bail and to deal with the urgent matters and granting bail to the accused falls under the category of urgent matters. No illegality has been committed by learned JMIC, Panchkula by granting the bail. Otherwise also, the order passed by learned JMIC, Panchkula granting bail on the reasonings given in the order, is correct and as per law. The order dated 25.09.2015 passed by learned Sessions Judge, Panchkula is illegal, not as per law and the same is hereby quashed.

Therefore, finding merit in the present petition, the same is allowed.

February 19, 2016
Vgulati

(INDERJIT SINGH)
JUDGE