

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

**Criminal Misc.No.M-34971 of 2015 (O&M)
Date of Decision : 15th November, 2016**

Neeraj Saini

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Vipin Mahajan, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, Addl. A.G., Punjab
for the respondent(s)-State.

Mr. D.S.Kahlon, Advocate for respondent No.2.

AJAY TEWARI, J. (Oral)

The petitioner has preferred the instant petition under Section 439 (2) Cr.P.C., for cancellation of anticipatory bail granted to respondent No.2 Amit Saini in case FIR No.41 dated 23.08.2015, registered at Police Station Taragarh, District Pathankot, Punjab, under Sections 323, 324, 325, 326, 148, 149 IPC.

The ground taken is that a false stand was made before the Court and anticipatory bail was granted.

Originally, on the allegations of the petitioner, the FIR under Sections 323, 324, 325, 326, 148, 149 IPC was registered. Respondent No.2 and other co-accused were released on regular bail and joined the investigation. Thereafter, injury attributed to respondent No.2 was declared grievous and Section 326 IPC was also added and respondent No.2 had filed an application for grant of anticipatory bail. The learned Addl. Sessions

Criminal Misc.No.M-34971 of 2015 (O&M)

-2-

Judge, Pathankot, vide order dated 29.09.2015, granting anticipatory bail to respondent No.2, had stated in para No.6 of the said order that as per the records, the petitioner side had been granted anticipatory bail by that very Court in cross case.

As per the learned counsel for the petitioner, all of this was false because the petitioner side never even applied for anticipatory bail.

On the other hand, learned counsel for respondent No.2 has argued that from all the facts which have come on record, it seems that the Addl. Sessions Judge, Pathankot, inadvertently, mentioned the 'complainant' whereas he intended to mention 'co-accused' because in the application for bail, no averment was made regarding cross case.

Learned State counsel has also argued that as per reply, filed on behalf of respondent(s)-State, respondent No.2 had never misled the Court.

This issue is debatable. To my mind what is determinative is that the anticipatory bail was granted to respondent No.2 in September, 2015. There is no allegation that he has misused the concession of bail and the final report has been filed by the police.

In these circumstances, without going into the question raised by learned counsel for the petitioner, I do not deem it appropriate to cancel the anticipatory bail granted to respondent No.2.

Accordingly, the instant petition stands dismissed.

(AJAY TEWARI)
JUDGE

15th November, 2016

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Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No