

CRM-M-38250-2015

Date of Decision : 11.05.2016

Suresh Kumar

.....Petitioner

versus

State of Haryana and another

....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. Manhar Singh Saini, Advocate
for the petitioner.

Mr. G.S. Salwara, DAG, Haryana.

Mr. Naresh Jain, Advocate
for respondent No. 2.**M.M.S. BEDI, JUDGE (ORAL)**

This is a petition for cancellation of regular bail granted to Amit Kumar, respondent No. 2 by this Court vide order dated 27.05.2015 Annexure P-9.

The case of the prosecution registered at the instance of the petitioner is that respondent No. 2, along with his father Roshan Lal, had duped the petitioner complainant for a sum of Rs.98 lacs in order to save the house from the coercive actions of the bank. A controversy had been raised by respondent No. 2 regarding his liability as documentary evidence, in that context, is not available but on the basis of telephonic conversation, which has been recorded by the petitioner complainant, respondent No. 2 had allegedly admitted his liability to repay the amount to the extent of Rs. 2.5 crores.

Learned counsel for the petitioner complainant has submitted that a right had been given to the petitioner to approach this Court for cancellation of bail after receipt of report of Expert regarding the voice sampling. It has been submitted by counsel for the petitioner that now the report has been received indicating that the voice in the CD is apparently that

of respondent No. 2.

Counsel for respondent No. 2 on the other hand has submitted that conversation is being misconstrued by the petitioner to be the admission of liability and that the amount mentioned in the conversation is pertaining to the amount which is payable to respondent No. 2 by his friends in the market.

I have considered the facts and circumstances of the case. The liability of respondent No. 2, either criminal or civil, is yet to be adjudicated upon. Challan has already been presented. Next date of hearing before the trial Court is stated to be 31.05.2016 for recording the statements of prosecution witnesses. The petitioner certainly has got the right to recover the amount, if any, by establishing the liability of the accused on civil side as well as in the criminal trial. It is not apparent from the record that at any stage, respondent No. 2 has misused his liberty after he has been granted concession of bail.

The order passed by this Court, Annexure P-9, no doubt, provided a liberty to the petitioner to file an application for cancellation of bail but said observation does not *ipso facto* meant that on filing of the application the bail order will be cancelled.

Without prejudice to the right of the petitioner to recover the amount or to establish the liability of respondent No. 2 during trial and seek his conviction, it is observed that no ground is made out to cancel the bail granted to respondent No. 2.

This petition is dismissed.

(M.M.S. BEDI)
JUDGE

11.05.2016
Neha