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

CRM-M-39031-2015

Date of decision:07.10.2016

Joginder Singh and another

... Petitioners

versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Amandeep Singh Manaise, Advocate,
for the petitioners.

Mr. Gurinderjit Singh, DAG, Punjab.

Mr. Ritesh Pandey, Advocate,
for respondent No.2.

HARI PAL VERMA, J.(*Oral*)

Prayer in this petition filed under Section 439(2) Cr.P.C. is for cancellation of anticipatory bail granted to accused/respondent No.2-Surjit Singh by this Court in CRM-M-17558 of 2014 vide order dated 10.09.2015 in case FIR No.1 dated 06.03.2014 under Sections 379, 406, 447, 448, 506 IPC, Police Station NRI/Gurdaspur, District Gurdaspur.

In the said FIR, petitioner-complainant, namely, Joginder Singh has complained that he has two sons and two daughters. One of his sons, Gurmej Singh (elder son) is residing in New Zealand for the last about 25/26 years. Both his daughters, namely, Paramjit Kaur and Palwinder Kaur are residing in America and his younger son, namely, Surjit Singh-respondent No.2 is residing in Village Basrawan. The petitioner-complainant and his wife had gone to their daughter Palwinder Kaur in

America and they resided there for about 5 years and became green card holders. In the year 1991, petitioner had purchased land measuring 1 kanal 3 marlas and had constructed a house thereon and all the expenses were incurred by his elder son-Gurmej Singh who is residing in New Zealand. Petitioner being father had purchased the said house in the name of both sons Gurmej Singh and Surjit Singh-respondent No.2 having half share each. As per FIR respondent No.2-Surjit Singh (younger son) usually harasses the petitioners so that he may get the remaining movable and immovable property transferred in his name. Respondent No.2 has given beatings to the petitioners and has taken forcible possession of tubewells, tractor-trolley, plots in the village. It has also been alleged that respondent No.2 along with other relatives have not only given beatings to the petitioners rather their passports as well as green card and \$ 5000 have been snatched from them, and they have also been pushed out of the house. Even the paddy which was sown on the land in their share has also been harvested. The petitioners have been made to suffer to the extent that they were not allowed to stay in the house therefore they had to stay in the house of former Sarpanch Sukhwant Singh of the same village.

Learned counsel for the petitioners states that when the petitioners came to India, they were residing with their younger daughter, but thereafter, they did not prefer to reside with their daughter for the obvious reasons i.e. social angle. Accordingly, both started living in a part of joint kothi of their sons-Gurmej Singh and Surjit Singh. This kothi was purchased by the petitioner in the name of his two sons from his own resources. Petitioners have been harassed by respondent No.2 and their passports, green card as well as \$ 5000 have been snatched and tubewells,

tractor-trolley, plots in the village have also been taken forcibly, after giving them the beatings.

On the other hand, learned counsel for respondent No.2 has denied the aforesaid allegations made in the FIR. He states that the allegation of snatching of green card and passports are false and nothing is required to be recovered from respondent No.2. He further states that already a civil suit is pending between parties and once respondent No.2 has been admitted on bail, the same cannot be cancelled. He refers to judgment of Supreme Court in **Abdul Basit @ Raju and others Versus Md. Abdul Kadir Chaudhary and another- 2014 (4) RCR (Criminal) 716.**

On the other hand, learned State counsel says that in the case in hand, police has already completed investigation and has prima facie found the contents of FIR correct. Accordingly, challan has been presented in court on 25.09.2015. The case is now fixed for framing of charge.

Heard, learned counsel for the parties.

The dispute is between the father and his younger son over the house which was allegedly purchased by the petitioner in the name of his two sons including respondent No.2. It has been pointed out that when the house in question was purchased, respondent No.2 was hardly 13 years of age and minor. Therefore, it cannot be stated that the said house was purchased by respondent No.2 from his own resources, even if the house is joint in the name of Surjit Singh and Gurmej Singh. The elder son Gurmej Singh is already staying abroad and, therefore, the petitioners are well within their right to claim residence in the said house, but respondent No.2 has not allowed the petitioners to stay in the house. It has been informed that the petitioners, who are mother and father of respondent No.2 and aged

persons, are made to stay in relatives house. This Court while admitting respondent No.2 on interim bail in CRM-M-17558-2014 titled as Surjit Singh Versus State of Punjab and another, vide order dated 10.09.2015, has specifically directed the respondent No.2 that he shall not harass the petitioners in any manner and in case, the petitioners are harassed, the parents shall be at liberty to approach the local police including recalling of concession of anticipatory bail. It has also been brought out to the notice of this Court that on account of harassment met out to the petitioners, they have also made a representation to the SHO Police Station Qadian on 08.10.2015 narrating the fact that respondent No.2 did not allow them to enter their house and they are not being allowed even to open the lock of main gate inside kothi. Petitioners are being rather insulted, misbehaved, abused in filthy language and severely harassed.

The very object of grant of anticipatory bail was to make the relations between parties cordial as the dispute was between the real parents and their son, but this Court finds that respondent No.2 has not acted in terms of the directions issued by this Court at the time when he was granted anticipatory bail on 10.09.2015. The very consideration to admit the respondent No.2 on anticipatory bail was that he will extend proper respect to his old parents and shall allow them to stay in the house. But the respondent No.2 has failed to honour his own statement.

The referred judgment in **Abdul Basit @ Raju** (supra) that once bail has been granted to accused, High Court cannot review the order and cannot cancel the bail even if it came to its notice that accused had obtained bail by misrepresentation of facts and fraud is not applicable in the peculiar facts of this case. In the instant case, bail of respondent No.2 is not

being cancelled on the ground of misrepresentation rather there was specific condition in the order dated 10.09.2015 that in case, the petitioners still find any harassment at the hands of respondent No.2, they would be entitled to seek cancellation of his bail.

Therefore, this court finds that respondent No.2 has acted against the spirit of order passed by this Court on 10.09.2015. Accordingly, his bail order dated 10.09.2015 stands cancelled.

Present petition stands allowed accordingly.

(HARI PAL VERMA)
JUDGE

07.10.2016
sanjeev

Whether speaking/reasoned
Whether Reportable:

Yes/No.
Yes/No.