

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: August 29th, 2016

+ CRL.M.C. 4994/2013

RAJPAL

..... Petitioner

Through Mr.S.C. Sagar, Adv. with Mr.Pradeep
Sehrawat, Adv. & Mr.Dheeraj
Kaushik, Adv.

versus

STATE NCT OF DELHI & ANR

..... Respondents

Through Mr.Amit Chadha, APP for the State.
SI Jagdish, PS Dwarka Sector 23.
Mr.Pawan Kumar, Adv. for R-2 & 3.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The present petition has been filed under Section 439(2) of Code of Criminal Procedure (hereinafter shall be referred as Cr.P.C.) for cancellation of anticipatory bail granted to the respondent no.2 (Darshan Kumar) and respondent no.3 (Karan Singh) by the Court below vide order dated 07.10.2013 in FIR No.4/2012, under Sections 420/468/471/34 IPC, Police Station Dwarka Sector-23 and also for setting aside of order dated 07.10.2013.

2. The facts in brief are that the instant FIR was registered on the basis of complaint made by one Smt.Bhanwati, mother of the petitioner-herein with the allegations that the plot no.160, Sector-

16, Dwarka, New Delhi belonging to the father of the petitioner was sold by respondent no.3 to respondent no.2 by playing fraud and making forgery in the documents. Several civil suits were also filed by the petitioner against the respondent nos.2 and 3 which were pending. During the pendency of civil suits, the Investigating Officer moved an application for obtaining the forged documents and the same were handed over to him to deposit the same after obtaining FSL report. During the pendency of the matter, the Court below granted anticipatory bail to the respondent nos.2 and 3 vide common order dated 07.10.2013.

3. Feeling aggrieved by the grant of anticipatory bail to the respondent nos.2 and 3, the petitioner has approached this Court for cancellation of same on the ground that the opportunity of hearing was not given to the petitioner to represent at the time of hearing on the bail application.

4. Arguments advanced by the counsel for the parties were heard.

5. Argument advanced by the counsel for the petitioner is that proper facts were not brought to the knowledge of the Court while passing the impugned order as the Investigating Officer did not file the status report before the Court below. It is further argued that only the defence of the accused persons was considered at the time of granting bail. The FSL report duly shows the commission of forgery in the documents by respondent nos.2 and 3 and the said fact was not brought to the knowledge of the Court granting bail. It is further argued that the intimation regarding pendency of bail

application was not given to the petitioner and thus he could not present his case before the Court below before the passing of impugned order.

6. On the other hand, learned counsel for the respondent nos.2 and 3 has argued that the Court below has granted anticipatory bail to them after considering all the allegations and facts of the case. There is nothing wrong in the impugned order. It is further submitted that the petitioner has not alleged any misuse of bail by the respondent nos.2 and 3 like tampering with the evidence or hampering the investigation or influencing the witnesses.

7. The law regarding cancellation of bail is well settled by the Hon'ble Apex Court in the case of *Dolat Ram and Ors. v. State of Haryana* (1995) 1 SCC 349. Relevant portion from the said judgment reads as under :

“Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail, already granted. Generally speaking the grounds of cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the Court, on the basis of material placed on record of the possibility of the accused absconding is yet another

reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non-bailable case in the first instance and the cancellation of bail already granted.”

8. As per the ratio of judgment in the case of **Dolat Ram** (supra), bail once granted in a non-bailable case can be cancelled when there is interference or attempt to interfere with the due course of administration of justice or evasion or abuse of the concession granted to the accused. Apart from the same, if there is apprehension of absconding of the accused, then also the Court can cancel the bail already granted.

9. In the present case, the petitioner has not alleged violation of any condition of bail granted to the respondent nos.2 and 3 which could form the basis for rejection of anticipatory bail. The only ground taken is that the petitioner was not intimated about the pendency of anticipatory bail applications and the Investigating Officer had not produced correct facts before the Court below during the pendency of the bail applications. Perusal of record shows that the Court below has gone through all the material

placed before it and the submissions made before him while disposing the anticipatory bail applications of the respondent nos.2 and 3. In the absence of mentioning any violation of the condition of bail, this Court is of the considered opinion that the petitioner has not make out his case for the cancellation of anticipatory bail granted to the respondent nos.2 and 3 vide order dated 07.10.2013. It is worthwhile to mention that the charge sheet under Section 173 Cr.P.C. has already been filed against the respondent nos.2 and 3 and the Trial Court vide order dated 01.06.2015 granted regular bail to both of them.

10. In view of the above discussion and the facts and circumstances, the present petition and the application, if any, is dismissed.

AUGUST 29, 2016
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(P.S.TEJI)
JUDGE