

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

CRM-M-10354-2014 (O&M)

Date of decision: 12.9.2017

Raj Kumar Sharma

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Petitioner in person

Mr.AS Gill, Sr.DAG, Punjab

Ms.Ramandeep Kaur, Advocate for

Mr.Sumeet Goel, Advocate for respondent No.5- CBI

Mr.Bhaskar Sharma, Advocate for

Mr.Ankur Mittal, Advocate for respondent No.9

Mr.Vaibhav Narang, Advocate for respondent No.11

JITENDRA CHAUHAN, J.

Dual prayer has been made in the present petition, first for cancellation of anticipatory bail granted to respondent No.9 by this Court vide order dated 18.2.2014 passed in CRM-M-39755-2013 and secondly, for issuance of direction to handover the investigation to CBI.

It is contended by the petitioner that respondent No.9 and his family members are extending threats to the petitioner for withdrawal of the case registered against them.

Heard.

Learned counsel for the State informs that no complaint

with regard to misuse of the concession of bail granted to respondent No.9 has been received. Otherwise also, second prayer of the petitioner with regard to transfer of the investigation in the matter has already been dealt with by this Court and declined vide order dated 17.11.2014 passed in CRM-M-44050-2013.

Heard.

In ***Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Anr., 2004 (2) R.C.R.(Criminal) 254: 2004 (7) SCC 528,***
Hon'ble the Supreme Court held as under:-

“11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstance, the following factors also before granting bail; they are:

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge.”

A three-member Bench of this Court in ***State (Delhi Administration) V. Sanjay Gandhi 1978 (2) SCC 411*** made the following elemental distinction in defining the nature of exercise while cancelling bail:

“Rejection of bail when bail is applied for is one thing; cancellation of bail already granted is quite another, it is easier to reject a bail application in a nonbailable case than to cancel a bail already granted in such a case. Cancellation of bail necessarily involves the review of a decision already made and can by and large be permitted only if, by reason of supervening circumstances, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during the trial.”

In the instant case, nothing has been brought on record to substantiate the fact that respondent No.9 is misusing the concession of bail granted to her.

In **Dolat Ram and others Vs. State of Haryana**, JT 1995

(1) S.C. 127, it has been held that the bail granted to the accused should not be cancelled in a mechanical manner. There is no dispute with regard to the proposition of law as laid down by Hon'ble the Supreme Court. The consideration for the cancellation of bail is totally different than the one for granting the bail. Such consideration should be weighty and strong, leaning towards the prosecution and the injuries suffered by the aggrieved party. No material or circumstance has been brought to the

notice of this Court, which could be a ground to cancel the bail. In the circumstances, no case for interference is made out.

In view of the above, the present petition fails and is hereby dismissed being devoid of merit.

12.9.2017
gsv

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned?	Yes	/	No
Whether reportable?	Yes	/	No