

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc. No.M-15315 of 2016 (O&M)

Date of Decision: October 25, 2017

Dinesh

.....PETITIONER(s).

VERSUS

State of Haryana and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Amit Rana, Advocate
for the petitioner (s).

Mr. Ashish Yadav, Addl.A.G. Haryana.

Mr. Sunil Sihag, Advocate
for respondents No.2 and 3.

SURINDER GUPTA, J.

The present petition has been filed under Section 439(2) Code of Criminal Procedure for cancellation of anticipatory bail granted to respondents No.2 and 3 vide order dated 16.03.2016 passed by learned Additional Sessions Judge, Palwal in case bearing FIR No.40 dated 30.01.2016 registered for the offences punishable under Sections 192, 193, 306, 420, 467, 468, 471, 411 read with Section 120-B of Indian Penal Code, at Police Station Hodal, District Palwal.

Respondents No.2 and 3 were allowed interim bail by lower Court and they joined the investigation. On 16.03.2016, the investigating officer submitted before the Court that the applicants-accused(respondent No.2 and 3) were not required for their custodial interrogation. Relying on the submission of investigating office and the facts of the case, learned Additional Sessions Judge, Palwal confirmed the orders dated 18.02.2016 and 06.02.2016 allowing interim bail to them.

Learned counsel for the petitioner has argued that while the bail was allowed on the submission of Investigating Officer that custodial interrogation of respondents No.2 and 3 was not required, the State in its reply filed in this petition, submitted that respondents No.2 and 3, even after joining the investigation, were not co-operating with the investigating agency and their custodial interrogation was very much required to uproot the truth in the case. This shows that submission of investigating officer before the Court below was not correct.

Learned State counsel when confronted with this anomaly and discrepancy, submits that the investigation has already been completed and challan has been filed in the Court. He, however, could not explain the anomaly in the statement of investigating officer before the Additional Sessions Judge, Palwal and in the reply filed in this petition.

It is quite strange that the State is coming up with two plea regarding one fact. While it was represented before the Court below that custodial interrogation of respondents No.2 and 3 was not required, Bhagat Ram HPS, Deputy Superintendent of Police, Hodal in reply on affidavit filed in this petition, submits that custodial interrogation of respondents No.2 and 3 is very much required. Police has never moved application before the Additional Sessions Judge seeking cancellation of bail by explaining the submission made by investigating officer before it. It appears that the plea in the written reply filed in this petition has been put forth by DSP, Hodal without looking into the facts of the case and this is required to be looked into by the higher police authorities.

I have also looked into the facts of the case. Desraj, father of complainant committed suicide and left a suicide note, blaming respondents

No.2, 3 and one Parveen Dalal for the extreme step taken by him. It appears that there was some litigation and a complaint filed under Section 138 of Negotiable Instruments Act was pending against Desraj. This complaint was fixed for orders from 29.01.2016 to 30.01.2016. On 29.01.2016, Desraj was present before learned Magistrate, Hodal and after the adjournment of the case, which was fixed for final orders, he committed suicide. Earlier, he had moved a complaint before the police levelling allegations against respondents No.2, 3, and Parveen Dalal, which was found to be false and filed.

Keeping in view the fact that investigation of this case is complete and other circumstances of the case as discussed above, I am of the considered opinion that this case does not call for recall of the order dated 16.03.2016 passed by learned Additional Sessions Judge, Palwal allowing anticipatory bail to respondents No.2 and 3.

This petition has no merits, as such, is dismissed.

However, Director General of Police, Haryana is directed to look into the plea taken in the affidavit by Bhagat Ram HPS, DSP, Hodal giving a contrary statement than the submission made before learned Additional Sessions Judge, Palwal while allowing anticipatory bail to respondents No.2 and 3 and take appropriate action.

Copy of this order be conveyed to Director General of Police, Haryana.

October 25, 2017

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No