

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-16127 of 2016
Date of Decision: 23.08.2017

Pawan Singh

....Petitioner

VERSUS

State of Haryana and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Karan Vir Jindal, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

Mr. Vaneet Kumar, Advocate
for respondent No.2.

SURINDER GUPTA, J.(Oral)

This is petition filed by petitioner-Pawan Singh seeking cancellation of anticipatory bail allowed to respondent no. 2-Gagandeep Bansal vide order dated 08.04.2016 (Annexure P-1) passed by Additional Sessions Judge, Panchkula.

2. FIR No. 10 dated 30.01.2016 was registered at Police Station Sector 19, Panchkula for offences punishable under Sections 406 and 420 of Indian Penal Code (for short 'IPC') on the complaint of petitioner, wherein he alleged that respondent no. 2-Gangadeep Bansal alongwith others has cheated Kulwant Singh, Amar Singh, Naresh Kumar Jain, Har Raj Sharda and Parul Thakur with allurement and promise of arranging a contract for them in Uttarakhand for supply/distribution of pesticides worth ₹15 crores and were made to part with a sum of ₹1,15,00,000/- to accused, namely, Gagandeep Singh (respondent no. 2), Lalit Bansal, Ajay Sharma etc.

Respondent no. 2-Gangadeep Bansal moved application seeking pre-arrest

bail, which was allowed with the observations as follows:-

“4. On same set of allegations complainant filed a complaint before the ADCP (D) Ludhiana, Punjab on 25.03.2015. The Punjab police investigated into the matter through Assistant Commissioner of Police, Investigation, Ludhiana, who submitted his report in this regard on 27.04.2015 before the Commissioner of Police, Ludhiana and in his report he found no truthness in allegations. In terms of order dated 01.04.2016 passed by this Court, the authenticity of report dated 27.04.2015 made by Assistant Commissioner of Police, Investigation, Ludhiana has been verified by the Investigating Officer. In the said report, it has clearly been mentioned that there is no fact of business in partnership as alleged and matter pertains to money transaction only and in the complaint dated 25.03.2015, nowhere as alleged that some transaction has been taken place at Panchkula. It means, if any offence is committed, then, same was committed within the jurisdiction of District Ludhiana, Punjab. Mere arrest of co-accused Ajay at Karnal by the police and then suggestion of the police to lodge FIR at Panchkula cannot help the complainant to wriggle out from the contents of the complaint dated 25.03.2015 filed by the police. There is no document showing reducing of any partnership deed in writing between the parties. Assuming the version of the complainant as true, then, it is a matter of civil liability. All the relevant documents connecting the accused with alleged offence are supposed to be in the possession of the complainant or the Investigating Officer. The custodial interrogation of the applicant/accused is not imperative by the police as offence alleged is based on documents.”

3. Learned counsel for the petitioner has argued that while

allowing anticipatory bail, material evidence, which was second report of Ludhiana Police dated 05.12.2015, on the basis of which FIR was recommended to be registered against respondent no. 2-Gagandeep Bansal vide order dated 29.03.2016, was not considered. After grant of bail respondent no. 2-Gagandeep Bansal filed false cases against petitioner-complainant at Mohali. He also joined the investigation but was not cooperating with the investigating officer.

4. Learned counsel for respondent no. 2 has argued that complaint was initially made by petitioner to Ludhiana Police and the same was ordered to be filed. He then made another representation to Ludhiana Police and without waiting for outcome of that representation got the FIR registered at Panchkula by raising the plea that part of the cause of action also took place at Panchkula as some meetings regarding constitution of partnership concern took place at Panchkula and some payments were also made there. When complainant is changing version one after the other and all the documents connecting respondent no. 2 with alleged offence are in possession of complainant or investigating agency, custodial interrogation of respondent no. 2 is not required and there is no reason for cancellation of his anticipatory bail, after he has joined investigation and is fully cooperating with investigating officer. On behalf of State, no application has been moved seeking cancellation of bail of respondent no. 2-Gagandeep Bansal on the ground that he is not cooperating in investigation or has indulged in filing false cases against the petitioner-complainant. Even otherwise, accused possesses all legal rights to avail legal remedies available to him against petitioner or any other person, which cannot be made a reason for cancellation of his bail.

5. Firstly, I take the submission of learned counsel for the petitioner that bail should be cancelled as respondent no. 2 after grant of anticipatory bail has filed false cases against the petitioner at Mohali or at some other places. When enquired about details of such cases, nothing was put-forth by learned counsel for the petitioner, as such, this argument is outrightly rejected. Second contention of learned counsel for the petitioner is that respondent no. 2 is not cooperating with the investigation but this contention is also not supported by any evidence. The State has not come-forward to seek cancellation of anticipatory bail allowed to respondent no. 2 on the ground that he is not cooperating with the investigating officer. This contention of learned counsel for the petitioner is also discarded. The third contention of learned counsel for the petitioner is that Ludhiana Police in second enquiry has found substance in allegations levelled by the petitioner and on the report of Assistant Commissioner of Police (Investigation), Additional Deputy Commissioner of Police vide order dated 29.03.2016 recommended registration of FIR against respondent no. 2 for offence punishable under Section 420 read with Section 120-B IPC. This fact was not looked into by learned Additional Sessions Judge, Panchkula while allowing anticipatory bail to respondent no. 2.

6. It appears that second report of Ludhiana Police was not put-forth before learned Additional Sessions Judge, Panchkula at the time of passing order dated 08.04.2016 either by counsel appearing for the petitioner, who had appeared for him or by learned State counsel. Even otherwise, FIR had already been registered against respondent no. 2 at Panchkula. Report of investigating agency at Ludhiana to register case against respondent no. 2 at Ludhiana, cannot be a reason for cancellation of

anticipatory bail allowed to him. In case FIR had been registered on the basis of conclusions arrived at by enquiry officer at Ludhiana, the petitioner would have right to assail the same by putting-forth his contentions. Besides taking the report of Ludhiana Police, learned trial Court has also observed that documents, which are basis of this case, are in possession of complainant/investigating officer and custodial interrogation of respondent no. 2 is not required. I find that above reasoning calls for no interference in this petition.

7. The petitioner is not an aggrieved party in this case. His status is only of informant. Persons, who are alleged to have been cheated by respondent no. 2 or the State appear to have no grouse against the order of lower Court granting anticipatory bail to respondent no. 2. The petitioner after giving information to police regarding commission of a cognizable offence cannot be allowed to challenge the grant of anticipatory bail to an accused by the Court when aggrieved parties or the State have no grievance on this score.

8. As a sequel of my above discussion, I find no merit in this petition and the same is dismissed.

August 23, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No