

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

CRM-M-15711 of 2017 (O&M)

Date of decision: 05.07.2017

Ajaib Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. G.S. Sidhu, Advocate for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

Mr. T.S. Sangha, Sr. Advocate with
Mr. Narinder Singh, Advocate
for respondent Nos.2 & 3.

Jitendra Chauhan, J. (Oral)

By filing the present petition under Section 439 (2) of the Code of Criminal Procedure, the petitioner has sought cancellation of bail granted to respondent Nos.2 & 3 by this Court, vide order dated 13.01.2017 (Annexure P-2) in FIR No. 38 dated 19.08.2016, registered under Sections 302, 325, 336, 120-B, 148 read with Section 149 of IPC and Sections 25 & 27 of Arms Act, at PS Sehna, District Barnala.

It is contended that after getting the benefit of regular bail, the respondent No.3 along with his companions had attacked

Jeewan Singh, one of the witness in the present FIR and FIR No.28 dated 23.03.2017 has also been registered in this regard.

On the other hand, the learned State counsel, on instructions, states that the assertion raised by the petitioner has been found to be false by the concerned authorities.

The learned counsel for respondent Nos.2 & 3 opposes the prayer made and states that there is nothing on record to justify the assertion of the petitioner.

I have heard learned counsel for the parties and perused the record.

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 Nos.2 and 3 are misusing the concession of bail granted to them.

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 are

totally different than the one for granting the bail. Such considerations should be weighty and strong, leaning towards the prosecution and the injuries suffered by the aggrieved party. The private respondents have been regularly appearing before the trial Court, therefore, at this stage, it cannot be said that the private respondents in any manner have misused the concession of bail. 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.

Dismissed.

05.07.2017

sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable:	Yes	No