

107 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25224-2017
Date of decision-20.07.2017

Aman Garg

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. K.S.Lakhanpal, Advocate for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

This petition has been filed under Section 439(2) Cr.P.C. read with Section 482 Cr.P.C. for cancellation of regular bail granted to respondent No.2 vide order dated 29.09.2016 (Annexure P-2) by learned Additional Sessions Judge, Kurukshetra in FIR No.130 dated 31.03.2016 registered under Section 304-B read with Section 34 of Indian Penal Code (in short 'IPC') at Police Station Pehowa, District Kurukshetra.

It is contended that after getting relief of regular bail by the trial Court, respondent No.2 alongwith other family members is threatening the petitioner and his family. Learned counsel for the petitioner further contends that custodial interrogation of respondent No.2 is necessary.

I have heard learned counsel for the petitioner 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 Hon'ble the Supreme 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 non-bailable 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.2 is misusing the concession of bail granted to him vide order dated 29.09.2016 , no case for cancellation of bail is made out at this stage.

However, Superintendent of Police, Kurukshetra is directed to decide the representation dated 20.06.2017 (Annexure P-3) filed by the petitioner, by passing a speaking order within a period of three weeks from the receipt of certified copy of the order.

Disposed of.

(JITENDRA CHAUHAN)
JUDGE

July 20, 2017
vanita

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