

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-37000 of 2015 (O&M)

Date of Decision: 20.01.2017

Lakhwinder Singh

--Petitioner

Versus

State of Haryana and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Ashish Gupta, Advocate for the petitioner.

Mr. C.S. Bakshi, Addl. A.G., Haryana.

Mr. Tarun Dhingra, Advocate for respondent No. 3.

TEJINDER SINGH DHINDSA.J

The instant petition has been filed under Section 439 (2) Cr.P.C. seeking cancellation of anticipatory bail that had been granted to respondents no. 2 and 3 herein vide orders dated 15.05.2014 (Annexure P-1) and 26.05.2015 (Annexure P-2), passed by this Court pertaining to FIR No. 963 dated 30.11.2013 under Sections 406, 420 I.P.C read with Section 24 of the Immigration Act, registered at Police Station, Thanesar City, District Kurukshetra.

Briefly, it may be noticed that the FIR came to be registered on the complaint of Lakhwinder Singh and with the allegations that the private respondents herein, who happen to be father and son had duped the complainant of a sum of Rs. 15 lacs on the pretext of sending Sagar Singh i.e. son of the complainant to U.S.A. To substantiate such allegation, it was also asserted by the complainant that respondent No.2 Ravinder Singh Sandhu @ Sonu had also given a cheque of Rs. 15 lacs towards security and to be used in the eventuality of Sagar Singh not going abroad.

Suffice it to notice that CRM No. M-4909 of 2014 preferred by Ravinder Singh Sandhu @ Sonu (respondent no.2 herein) was accepted on 15.05.2014 and concession of pre-arrest bail had been granted with the clear stipulation that he would abide by the terms and conditions as envisaged under Section 438 (2) sub clause (i) to (iv) of the Code of Criminal Procedure. CRM No. M-31406 of 2014 preferred by respondent no.3 namely Ajit Pal i.e. father of respondent no.2 was also accepted by this Court vide order dated 26.05.2015 on the same terms and conditions.

The instant petition seeking cancellation of the concession of anticipatory bail is founded on the premise that respondent no. 2 namely Ravinder Singh Sandhu @ Sonu has already proceeded abroad and without taking due permission from the Trial Court and as such, is evading the process of law. In so far as, respondent no.3 is concerned, an apprehension is voiced that he would also follow suit.

Upon notice having been issued in the instant petition, a reply by way of an affidavit of the Deputy Superintendent of Police, Kurukshetra has been filed and placed on record on behalf of respondent no. 1.

As per service report, respondent no.2 is stated to have been served through his father i.e. respondent no.3.

Mr. Tarun Dhingra, Advocate has put in appearance on behalf of respondent no. 3 but states that he has no instructions qua respondent no. 2.

In the reply that has been filed on behalf of respondent no.1/ State, it has been averred that before the Trial Court Ajit Pal (respondent no.3 herein) had moved an application seeking exemption from personal appearance on behalf of his son by stating that he had gone abroad for

business purpose and as and when he returns back, he would join the trial proceedings. Such assertion made in the written statement is not denied by counsel who is representing respondent no. 3. What clearly emerges is that before the Trial Court respondent no.3 is representing the interest of his son i.e. Ravinder Singh Sandhu @ Sonu. For the sake of convenience respondent no.3 in the present proceedings has engaged a counsel, who chooses not to appear for respondent no.2. Under such piquant circumstances, this Court would proceed by taking respondent no.2 to have been duly served through his father i.e. respondent no.3.

In the reply filed on behalf of the State, it has been clearly averred that an inquiry had been got conducted and it stands verified that respondent no.2 has proceeded abroad. The uncontroverted factual position is that no permission was sought from this Court by respondent no.2 before proceeding to a foreign land. Such conduct was in clear violation of the relevant provisions under Section 438 Cr.P.C. Respondent no.2, as such, has misused the concession of anticipatory bail that had been granted to him in the light of order dated 15.05.2014 passed by this Court in CRM No. M-4909 of 2014.

For the reasons recorded above, the instant petition seeking cancellation of anticipatory bail to respondent no.2, is accepted. Consequently, the concession of pre-arrest bail granted vide order dated 15.05.2014 by this Court in CRM No. M-4909 of 2014 shall cease to operate.

In so far as, respondent no.3 namely Ajit Pal is concerned, it is only an apprehension that has been voiced by the counsel appearing for the complainant/petitioner that he would also flee abroad. Looking towards the

conduct of the private respondents herein and whereby, the main accused i.e. respondent no.2 Ravinder Singh Sandhu @ Sonu having already proceeded abroad and without seeking permission of the Court and in violation of the provisions contained under Section 438 Cr.P.C., the apprehension voiced by the counsel for the petitioner cannot be taken to be totally unfounded.

To meet such apprehension, Mr. Tarun Dhingra, Advocate representing respondent no.3 very fairly states and gets an undertaking recorded that respondent no.3 would, within a period of seven days from the date of passing of this Court, surrender his Passport before the Trial Court. He further clarifies that in the eventuality of respondent no.3 not holding a valid Passport, he would file a requisite affidavit deposing therein the factual aspect of not holding a Passport.

It is made clear that in case the undertaking furnished by counsel as regards respondent no.3 is not complied within the stipulated time frame, the concession of anticipatory bail granted to him would stand cancelled.

Petition is partly allowed and disposed of in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

20.01.2017

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Whether speaking/reasoned: Yes
Whether Reportable: Yes