

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

CRM-M-39217-2017

Date of decision: 22.11.2017

Jagdeep Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr.Ranjan Lakhanpal, Advocate for the petitioner

JITENDRA CHAUHAN, J.

The present petition under Section 439 (2) of the Code of Criminal Procedure has been filed for cancellation of bail granted to respondent No.2 in case First Information Report No.320 dated 16.10.2014 registered under Sections 406, 420 and 120-B of the Indian Penal Code at Police Station Zirakpur, District SAS Nagar (Mohali)

Learned counsel for the petitioner contends that the order Annexure P2 was obtained by respondent No.2 by misleading the Court as Annexure P5 is a forged document. No other submission has been raised.

Heard.

In Aslam Babalal Desai vs. State of Maharashtra 1993

AIR (SC) 1, Hon'ble the Supreme Court has held as under:

“....As stated in Raghubir Singh's case the

grounds for cancellation under Sections 437(5) and 439(2) are identical, namely, bail granted under Sections 437(1) or (2) or 439(1) can be cancelled where (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation, (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation, (v) there is likelihood of his fleeing to another country, (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency, (vii) attempts to place himself beyond the reach of his surety, etc. These grounds are illustrative and not exhaustive. It must also be remembered that rejection of bail stands on one footing but cancellation of bail is a harsh order because it interferes with the liberty of the individual and hence it must not be lightly resorted to.”

In State (Delhi Admn.) v. Sanjay Gandhi 1978(2) SCC

411, Hon'ble the apex Court observed that rejection of bail when bail is applied for is one thing; cancellation of a bail already granted is quite another. It is easier to reject a bail application in a non-bailable case than to cancel a bail once granted. That is because cancellation of bail interferes with the liberty already secured by the accused either on the exercise of discretion by the Court or by the thrust of law. Therefore, the power to take back in custody an accused who has been enlarged on bail

has to be exercised with care and circumspection.

At this stage, there is no evidence on record on the basis of which it can be said that Annexure P5 is a forged document. Learned counsel has not referred to any evidence and circumstances on the basis of which it can be said that the order Annexure P2 passed by this Court is being misused by respondent No.2.

In view of the above, the present petition being devoid of merit is dismissed.

22.11.2017
gsv

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No