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

CRM-M-42755 of 2016 (O&M)

Date of decision: November 15, 2017

Shiv Kumar

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. Naveen S. Bhardwaj, Advocate for the petitioner.

Ms. Tanisha Peshawaria, DAG Haryana.

Mr. Abhimanyu Singh, Advocate for respondent No.2.

A.B. CHAUDHARI, J (Oral)

Rule. Heard forthwith.

This petition has been filed by the petitioner-complainant challenging the order dated 26.07.2016 granting bail to respondent No.2.

Learned counsel for the petitioner-complainant *inter alia* submits that one of the ground is that respondent No.2 has to his credit 14 cases listed at Page No.12 of the petition. According to him, Sr. Nos.3, 7 and 11 on the said page, show that he has been convicted in those cases and sentenced also. Learned counsel contended that this list of cases or the fact of the criminal background of respondent No.2 was not placed before the trial Court.

On enquiry with the learned State counsel, she agrees that there are 14 numbers of cases against respondent No.2.

Learned counsel for the petitioner-complainant also contended that other reason for filing cancellation petition is that the

petitioner is being threatened on telephone and for which he has filed representations.

In my opinion, it would not be appropriate to this Court to consider to these contentions for the first time, which were never raised before the trial Court. In that view of the matter, looking to the seriousness of the matter, namely criminal cases numbering 14 right from 1997 to 2015, which are relevant factors and further allegation about the threats etc. imparted to the petitioner-complainant, I think the matter should be reconsidered by the trial Court after making assessment to the above factors. The state shall also file comprehensive affidavit before the trial Court.

Proceedings by which the bail was granted to respondent No.2 are therefore, sent back to the trial Court concerned for fresh consideration in the light of the above facts. Parties shall appear before the trial Court on 27.11.2017 and the trial Court shall call upon the State to file detailed affidavit/reply. Thereafter, the trial Court shall take a view on the allegations made by both the parties and decide the issue regarding cancellation of bail, within a period of one and half months from today.

Disposed of.

(A.B. CHAUDHARI)
JUDGE

November 15, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No