

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

CRM No.M-42992 of 2016 (O&M)

Date of Decision: July 05, 2017

Narinder Kumar Khanna

...Petitioner

VERSUS

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sanjeev Duggal, Advocate
for the petitioner.

Mr.Gaurav Garg Dhuriwala, Sr. DAG, Punjab
for the respondent-State.

Mr.M.S.Atwal, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 439(2) read with Section 482 Cr.P.C. for cancellation of regular bail granted vide order dated 15.05.2015 in case FIR No.5 dated 08.04.2015 under Sections 406, 420, 465, 467, 468, 471 and 120-B IPC, registered at Police Station NRI Amritsar, District Amritsar City.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

At the time of arguments, learned counsel for the petitioner

argued that the bail should not have been granted to respondent No.2 on merit due to the gravity of the offence. He further argued that respondent No.2 has visited abroad without permission of the Court by clearly violating the bail conditions.

Learned counsel for respondent No.2 argued that the bail granted on merit by the Court cannot be recalled only on the ground of nature and gravity of the offence. I agree with the argument of learned counsel for respondent No.2. Once the bail has been granted on merit by the court, the order cannot be recalled as it will amount to reviewing the order. The bail can be cancelled under Section 439(2) Cr.P.C. on other grounds i.e. for tampering with the evidence etc.

Learned counsel for respondent No.2 contended that the petitioner intentionally, for harassing respondent No.2, is filing such type of petitions and also levelling false allegations. Learned counsel for respondent No.2 sought apology on behalf of respondent No.2 for not taking permission of the Court while visiting abroad but he has shown the copy of the letter written by the SHO, Police Station NRI Amritsar to the Immigration Authority stating that respondent No.2 is not required in the above-mentioned FIR, therefore, he may not be detained at the airport and he may be allowed to proceed to abroad and further may be allowed to come back to India.

Learned counsel for respondent No.2 argued that at that time, respondent No.2 was found innocent during investigation and that is why, SHO had written the letter. He next argued that respondent No.2 is regularly appearing before the Court for about two years and he has not

respondent No.2 is ready to furnish the undertaking that he will never visit abroad again without permission of the Court.

Keeping in view the fact that SHO of Police Station NRI Amritsar had stated at that time respondent No.2 was not required in this case and he may be allowed to visit abroad and come back to India and further in view of the fact that respondent No.2 is appearing before the Court regularly and due to his visit to abroad, no delay has been caused in this case, I do not find it a fit case where the bail should be cancelled.

Therefore, finding no merit in the present petition, the same is dismissed.

July 05, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No