

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

**Criminal Misc. No.M-47431 of 2017 (O&M)
Date of Decision: December 13, 2017**

Jagraj Singh

.....PETITIONER(s).

VERSUS

State of Punjab and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashok Bhardwaj, Advocate
for the petitioner (s).

SURINDER GUPTA, J.

Heard.

This is petition seeking cancellation of bail allowed to private respondents by learned Magistrate vide order dated 26.07.2017, which reads as follows:-

“File put up on the application of applicant Sharanjit Singh, Balbir Singh and Jaspal Kaur. They have applied for bail and for accepting and attesting the bail bonds. Perusal of file shows that Hon'ble Punjab and Haryana High Court on 17.06.2017 had granted interim bail to the applicants. As such, accused are ordered to release on bail subject to furnishing bail bonds and safety(sic surety) bonds in the sum of ₹50,000/- with one surety of the like amount each. Requisite bail bonds and surety bonds furnished, which have been accepted and attested.

Sd/-
(Dr. Gagandeep Kaur)
JMIC/FGS
26.07.2017

Date of Order 26.07.2017.”

Private respondents had earlier filed petition seeking

anticipatory bail bearing CRM-M-21384-2016, in which they were allowed interim bail vide order dated 17.06.2016 and this order was confirmed vide order dated 18.10.2016. It appears that while allowing the petition vide order dated 18.10.2016 it was presented before this Court that police has prepared cancellation report and the same has been submitted before the Court concerned.

Learned counsel for the petitioner submits that after the passing of order dated 18.10.2016, cancellation report was not accepted by the Court and reinvestigation in the matter was ordered and the police thereafter presented challan against the private respondents. They moved another petition before this Court seeking anticipatory bail bearing CRM-M-24630-2017, which was withdrawn with liberty to approach the Sessions Court for the relief as claimed. Instead of filing application before the Sessions Judge, seeking relief of anticipatory bail, private respondents appeared before the trial Court and on the basis of order dated 17.06.2016, obtained order of regular bail. They did not disclose order dated 13.07.2017 passed in CRM-M-24630-2017 before the learned Magistrate. The bail, as such, was obtained by concealment of facts and playing fraud with the Court. The petitioner then filed application before the District & Sessions Judge seeking cancellation of bail allowed to private respondents, which was declined.

On giving a careful thought to the submissions of learned counsel for the petitioner, I find that order dated 18.10.2016 passed in CRM-M-21384-2016 was never withdrawn and the private respondents remained on anticipatory bail till filing of the challan. As the private respondents were already on anticipatory bail, it appears that the petition

bearing CRM-M-24630-2017 was filed by them under some wrong advice. They were not required to file the second petition seeking anticipatory bail when the order allowing them anticipatory bail dated 18.10.2016 had never been set aside and was valid till filing of the challan. Though the private respondents had withdrawn the second petition bearing CRM-M-24630-2017 with liberty to approach the Sessions Court but the liberty allowed to them did not bind the private respondents to approach the Sessions Court as they were already on anticipatory bail.

Learned counsel for the petitioner has relied on the observations in cases of *Smt. Bimal Devi Vs. State of Bihar 1994 (2) SCC 8 (SC)*; *Anil Kumar Vs. Kamlesh 1995(3) R.C.R. (Criminal) 282(P&H)*; *Prerna Sharma Vs. State of H.P. And another 2017(3) Him.L.R. 1649 (H.P.)* and *Md. Rustam @ Minu Vs. The State of Bihar 2017(3) PLJR 598 (Patna)*, in support of his contention that where the bail order has been obtained by concealment of fact and playing fraud, the same is to be cancelled.

However, in view of the facts as discussed above, I find that there is no fraud played by the private respondents. The regular bail allowed to them do not call for withdrawal, particularly keeping in view the fact that police in this case had firstly filed cancellation report and then challan against the private respondents.

There is no merits in this petition.

Dismissed.

December 13, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No