

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1206 of 2015

Fatima Begam, W/o. Late Ibrahim Shakur, Aged About 60 Years,
Occupation House Wife, Nirashrit, R/o. Ward No.7, Lalpur Road,
Bagbahra, Post & Thana Bagbahra, Distt. Mahasamund, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Station House Officer, P.S. Bagbahra, Distt. Mahasamund, Chhattisgarh.
2. Indrish, S/o. Ibrahim, Aged About 60 Years.
3. Hanif, S/o. Ibrahim, Aged About 55 Years.
4. Vahid, S/o. Ibrahim, Aged About 52 Years.

All by Caste- Musalman, R/o. Village House of D.N.C. 3A of 282 F.F.I.,
Area, Ambala, Fariya Nani Ruman Kharabadipara, Tahsil Badi Raman
(Nanin Raman Kendra Sashit State Daman Deev).

---- Respondents

For Petitioner : Mr. Adil Minhaj, Advocate
For State : Mr. S.K.Mishra, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

08.01.2018

Heard

1. The present petition is for cancellation of bail granted to the accused/respondents vide order dated 27.11.2015 in MCRC(A) No.1171/2015.
2. The case was passed over many a time, the respondent No.3 & 4 have been served and respondent No.2 has been stated to be out of country now as per service report as disclosed by other respondents.
3. Learned counsel for the complainant/petitioner would submit that the order of bail on 27.11.2015 is obtained by playing fraud on the Court since nothing was disclosed in such bail that earlier to it another bail application was dismissed on 28.06.2002 in MCRC

No.187/2002 in respect of the same crime number by the High Court. He further submits that after dismissal of the anticipatory bail in MCRC No.187/2002 on 28.06.2002, another bail application was preferred before the Sessions Judge suppressing the fact that earlier anticipatory bail has been dismissed by the High Court, however, the same was dismissed by the Sessions Judge on 14.05.2015. Against that, an anticipatory bail application was preferred before this Court in MCRC(A) No.1171/2015 which was allowed by this Court on 27.11.2015, therefore, fraud has been played on this Court to obtain the bail. He submits that under the circumstances the bail granted to the accused/respondents may be canceled.

4. Despite notice, no appearance has been made by the respondent No.3 & 4. Mr. Govind Dewangan whose name appears in the cause list submits that no instructions have been imparted to him.
5. Perused the earlier rejection order dated 28.06.2002 which was filed by Idrish, S/o. Ibrahim, Hanif, S/o. Ibrahim & Vahid, S/o. Ibrahim. MCRC No.187/2002 shows that anticipatory bail prayed for was dismissed by this High Court. Subsequently, perusal of the order sheet would show that another bail application was preferred by the respondents on 06.04.2015 wherein it was stated that it was the first bail application before the Sessions Judge. The Sessions Judge dismissed the bail application by an order dated 14.05.2015. Against such order, the respondents preferred this anticipatory bail before this High Court which was bearing MCRC(A) No.1171/2015 and their bail application was allowed taking into the nature of controversy as certain civil suit was pending.

6. Be that as it may, the fact is that the subsequent bail application when was moved this fact was not disclosed that it was the second bail. The suppression of fact was made with respect to that earlier occasion the bail application was dismissed and even the bail application bearing MCRC(A) No.1171/2015 categorical submission was made that it was first anticipatory bail application in respect of the same crime number bearing No.212/2001. Therefore, without going into merits, in the opinion of this Court, fraud was played on the Court. If such practice is encouraged then litigants and the accused shall adopt different means of procedure without disclosing the fact about earlier rejection of any bail. Taking into the fact that earlier bail application of the same respondents was dismissed on 28.06.2002 by the High Court and subsequently as appears by suppression of fact and by playing fraud on the Court, bail was obtained. The bail order dated 27.11.2015 passed in MCRC(A) No.1171/2015 is hereby recalled. The bail granted to the respondents dated 27.11.2015 shall no longer remain in force, it is canceled. The respondents shall be arrested forthwith to commit them in to custody.
7. With such observation, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge