

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

CRM-M-2102-2018 (O&M)
Date of decision: 19.12.2018

Hukam Singh

... Petitioner(s)

VERSUS

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Viraj Gandhi, Advocate.
for the petitioner.

Mr. R.K.Makkad, DAG, Haryana

RAJ SHEKHAR ATTRI, J.

The present petition has been filed under Section 438 Code of Criminal Procedure read with Section 439(2) of Cr.P.C. for cancellation of anticipatory bail granted to respondents No.2 to 7 vide order dated 2.12.2017 passed by learned Additional Sessions Judge, Panipat in case FIR No.180 dated 12.6.2016 registered for the offences punishable under Sections 148, 149, 323, 324, 325, 506, 307, 302 of Indian Penal Code, at Police Station Sadar, Panipat, District Panipat with an alternative prayer for imposing condition restraining respondents No.2 to 7 from entering the village.

This Court would like to reproduce the relevant part of the statement of PW3 Bhajji as under :

“Sunil son of Jagpal gave kicks and punches to me. Ravit son of Ramesh gave me hockey blow. Vicky son of Jasmat inflicted injuries to me with wooden handle (Binda). Sheela son of Paras

inflicted Gandasi blow on my right hand. Sumit son of Jagdish gave a pistol butt blow on my head. Rinku son of Rai Singh gave a iron bar blow on my both legs. Sunder son of Om Singh gave a wooden handle blow on my back. Rajesh son of Prem gave sword blows on my legs. Sanjay son of Smt. Vishni was armed with a pistol. When he tried to give me pistol blow on my head, I raised my hand and saved. Ankush son of Rajinder gave sword blow on my legs. Jagdish son of Devi Singh gave Lathies blows on my back. Tej Pal son of Nar Singh gave iron bar blows on my back. Joni son of Sahab Singh was having a spade handle and gave its blow on my back and legs. Sachin son of Rula gave a sword blow on my head. Joginder son of Sahiya Ram gave Gandasi blows on my legs. Deepak son of Suresh gave wooden handle blows on my legs, hands and back.”

After registration of the FIR, the petitioner was declared innocent and they were not charge sheeted. Thereafter, the State filed an application under Section 319 Cr.P.C. and they have been summoned to face trial.

On their appearance, they have been granted bail by learned Additional Sessions Judge, Panipat vide order dated 2.12.2017 (Annexure P-7) which reads as under : -

“File taken up on application. In pursuance of order dated 24.11.2017 passed by Hon'ble High Court in CRM-M-43793-2017 accused Joginder, Ankush, Rajesh, Jagdish, Sanjay and Tejpal put their appearance in the Court today. The applicants-

accused have been granted interim anticipatory bail by the Hon'ble High Court. Therefore, accused Joginder, Ankush, Rajesh, Jagdish, Sanjay and Tejpal are directed to furnish their bail bonds in the sum of Rs. 50,000/- each with one surety in the like amount. Requisite bail bonds furnished, accepted and attested. To come up on 22.12.2017, date already fixed in this case for appearance of the accused.”

So far as the law laid down for cancellation of bail is concerned, Hon'ble Supreme Court in case **Gurcharan Singh and others v. State (Delhi Administration)**, AIR 1987 SC 179 has held in para 25 as under : -

“25. The question of cancellation of bail under Section 439 (2), Criminal Procedure code of the new Code is certainly different from admission to bail under Section 439(1), Criminal Procedure Code. The decisions of the various High Courts cited before us are mainly with regard to the admission to bail by the High Court under [Section 498](#), Criminal Procedure Code (old). Power of the High Court or of the Sessions Judge to admit persons to bail under [Section 498](#), Criminal Procedure Code (old) was always held to be wide without any express limitations it], law. In considering the question of bail justice to both sides governs the judicious exercise of the court's judicial discretion. The only authority cited before us where this Court cancelled bail granted by the High Court is that of [The State v. Captain Jagjit Singh](#), (1962) 3 SCR 622. The Captain was prosecuted along with others for conspiracy and also under [Sections 3 and 5](#) of the Indian Official Secrets Act, 1923 for passing on official secrets to a foreign agency. This Court found a basic error in the order of the High Court in treating the case as falling under [Section 5](#) of the Official Secrets Act which is a bailable offence when the High Court ought to have

proceeded on the assumption that it was under [Section 3](#) of that Act which is a non-bailable offence. It is because of this basic error into which the High Court fell that this Court interfered with the order of bail granted by the High Court.

In this case, respondents No.2 to 7 have been summoned to face trial vide order dated 28.10.2017. The occurrence is dated 12.6.2016. They have appeared before the trial Court on 02.12.2017. During the interregnum, there is no report if they posed any threat to the victim or witnesses of the case. No case is made out for imposing a condition upon respondents No.2 to 7 not to enter in their village. However, during the trial, they will maintain good character and behaviour.

Thus, no case is made out for cancellation of the bail or for issuance of directions to respondents No.2 to 7 not to enter the village.

Dismissed.

December 19, 2018
Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No