

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.17308 of 2019

Date of Decision: November 06, 2019

Sukhraj Karan Singh

...Petitioner

Versus

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Preetinder S. Ahluwalia, Advocate,
for the petitioner.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 439(2) read with Section 482 Cr.P.C. for cancellation of bail granted to accused-respondent No.2 vide order dated 11.03.2019 (Annexure P-2) passed by the Sessions Judge, Faridkot in case FIR No.129 dated 07.08.2018, under Sections 307, 323, 341, 148, 149, 201, 218 and 120-B IPC, 1860 and Section 27 Arms Act, 1959, registered at Policed Station, City Kotkapura, District Faridkot.

The above FIR was registered on the basis of the statement given by complainant-Ajit Singh, wherein it was alleged that on 13.10.2015 when a large group of people gathered to register their protest to the incident of sacrilege, the police took offensive action with lathi charge and use of water cannon and firing, wherein he suffered a gun shot injury on his thigh. According to the complainant, he was got admitted in Civil Hospital, Kotkapura where he got the treatment. It was specifically mentioned in the FIR that previously he never gave any statement to the police.

Learned counsel for the petitioner contends that accused-respondent No.2, being a senior police officer with Government of Punjab,

was responsible along with others for the alleged occurrence and, therefore, the Court of Sessions, while extending the concession of regular bail to the accused, has not considered the gravity of the offence. According to him, respondent No.2 was arrested on 18.02.2019 and after approximately three weeks, he was released on bail vide order dated 11.03.2019. According to the learned counsel, the investigation was pending when the concession was extended to the accused and, therefore, the Court has shown undue haste in granting bail to him. It is prayed that the impugned order warrants interference by this Court and the bail deserves to be cancelled.

During the course of hearing, learned counsel for the petitioner fairly states that neither the concession of regular bail granted to respondent No.2 has been misused by him nor any such ground is set up in the petition by the petitioner to seek the cancellation of bail. He further submits that the petitioner is not connected with the alleged occurrence as neither he is a victim nor a witness to the said incident.

At this stage, learned counsel was confronted with the locus-standi of the petitioner and maintainability of the petition. In response, Mr.Ahluwalia submitted that being a citizen of India, he has every right to challenge the concession of bail granted to an accused in the public interest as every offence is against the society. It is not disputed by him that the prayer made by the accused was never opposed by the petitioner before the Court of Sessions when the bail application was heard. In support of his argument, learned counsel has relied upon the judgment passed by the Hon'ble Supreme Court in **R.Rathinam Versus State by D.S.P., 2000 AIR (SC) 1851.**

After hearing the learned counsel for the petitioner, this Court

finds that the judgment cited may not be strictly applicable in the facts and circumstances of the present case as the facts in the present case are entirely different. In the cited case, a gruesome massacre took place on 30.06.1997 and various persons were indicted as accused, who were later on granted bail by the High Court. The brother of one of the victims was aggrieved against the said concession and moved a representation to the Chief Minister of Tamil Nadu requesting him for taking steps for cancellation of the bail, however, no action was taken on the representation and finally, some advocates carried the issue and presented a memorandum before the Chief Justice of Madras High Court and sought cancellation of the bail. The matter was assigned to the Division Bench, however, the same was closed with the observation that the suo-motu proceedings cannot be invoked by ignoring the statutory provisions. According to the Division Bench, the remedy was available to the petitioner therein before the Hon'ble Supreme Court. It was in that context, the Hon'ble Supreme Court set-aside the order and remanded the case back for decision afresh.

Apart from above, it is noticed that the order dated 11.03.2019 granting bail to respondent No.2 is based on proper exercise of discretion by the Court of Sessions, which is founded on sound judicial principles. It is settled law that bail is a general rule, whereas the denial is an exception.

During the course of hearing, it is also not disputed by the learned counsel that the petitioner is a Senior IPS Officer, who has been serving with the State of Punjab for a long time, therefore, it is clear that respondent No.2 has deep roots in the society and there is no possibility of his absconding or tampering with the evidence.

A perusal of the impugned order further reveals that in the said

occurrence, more than 40 police officials were also injured at the hands of the protesters and the trial Court before extending the concession had examined the CCTV footage of the said occurrence, wherein it was seen that the police officials were also attacked by the protesters and the police vehicles were also set on fire. A perusal of the order dated 11.03.2019 reveals that the Court has taken into account all the attending facts and circumstances of the case in consideration before granting bail to the accused.

Even otherwise, it is not the argument of the learned counsel that the State is not prosecuting the accused properly and, therefore, the petitioner is approaching this Court. Above all, Article 21 Constitution of India provides for right to life, which includes fair and speedy trial for an accused. In case the argument of the learned counsel is accepted regarding maintainability of the petition, then it would certainly cause prejudice to the petitioner (accused), who would be forced to contest this petition on behalf of person, who is stranger to the alleged occurrence.

In view of the above, this Court is not inclined to entertain this petition on behalf of the petitioner and, therefore, the same is dismissed.

November 06, 2019
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No