

In the High Court of Punjab and Haryana at Chandigarh

CRM M-45663 of 2018
Date of Decision: January 18, 2019

Sukhwinder Singh and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Ms. Anju Sharma, Advocate,
for the petitioners.

Mr. I.P.S. Doabia, Addl. A.G., Punjab.

Mr. Jasvir Singh Dhaliwal, Advocate,
for respondent No.2.

A.B. Chaudhari, J.(Oral)

Petitioner No.1 is Sukhwinder Singh son of S. Bakshi Singh while the name of the accused is also Sukhwinder Singh @ Sukha Bhau son of Sh. Jarnail Singh. Complainant – Sukhwinder Singh has filed the present petition under Section 439 (2) Cr.P.C. seeking cancellation of regular bail that was granted by this Court to respondent no.2 – Sukwinder Singh accused vide order dated 18.01.2017 in CRM M-30877-2016 titled “Sukhwinder Singh @ Sukha Bhau vs. State of Punjab” in case FIR No. 38 dated 10.05.2016, under Sections 406, 420, 467, 468, 471 & 120-B IPC, registered at Police Station Sardulgarh, District Mansa.

The case of the prosecution in the said FIR bearing No. 38 dated 10.05.2016 is that accused – Sukhwinder Singh @Sukha Bhau had duped the present petitioners with huge sums running in lakhs on the false

promise of repaying the invested amount by them in multiple. In fact, respondent no.2 floated a company by the name and style of Krishna Enterprises and not only the petitioners but many other persons were duped by him. Thus, respondent no.2 – Sukhwinder Singh @ Sukha Bhau trapped gullible investors and mis-appropriated their money. This Court granted regular bail to respondent no.2 – accused for the reasons stated in the order dated 18.01.2017.

After grant of regular bail to respondent no.2 – accused, the petitioners made allegations that respondent no.2 started threatening the witnesses and tampering with the evidence of the prosecution and therefore, the petitioners filed CRM M-33846 of 2017, decided on 27.03.2018 for cancellation of his regular bail. This Court heard the said application for cancellation of bail, but did not cancel the bail as this Court wanted to give a chance to respondent no.2 – accused not to behave in such a manner and not to tamper with the prosecution evidence. Equally, this Court wanted to protect the interest of prosecution also though it did not cancel the bail and therefore, a condition was imposed on respondent no.2 – Sukhwinder Singh (accused) not to enter the District of Mansa where the witnesses were residing. That condition No. (iv) reads thus:-

“(iv) The petitioner shall not enter the limits of District Mansa, save and except the date of hearing before the trial Court.”

In other words, this Court showed mercy in not cancelling the regular bail. The said condition no. (iv), however, was relaxed for a total period of five weeks made by this Court by two orders for the reasons appearing in the application for grant of relaxation for a limited period.

The period of relaxation expired but respondent no.2 – accused flouted the said condition by residing at his place, whereas as a matter of fact he could not have entered the limits of District Mansa at least after the expiry of five weeks which was relaxed by this Court. Not only that respondent no.2 – accused started threatening the witnesses by living in the District of Mansa by saying that the witnesses should not depose against him in the Court. This complaint by the petitioners is supported by photographs produced on record on this file wherein on the basis thereof, the petitioners again seek cancellation of regular bail granted to respondent no.2 – accused as he has violated the condition no. (iv) as aforesaid and further threatening the witnesses not to depose against him. The respondent no.2 – accused has not filed any reply though served. His counsel has opposed the application orally denying the averments made in the present petition for cancellation of regular bail. The conduct of respondent no.2, thus, as is revealed from averments made in the petition as well as various photographs in continuing to violate the condition is sufficiently corroborated by the complaint to Senior Superintendent of Police, Mansa dated 07.07.2018 (Annexure P/4) and the photographs annexed with the petition, so also Annexure P/2 his attendance in blood donation camp at Mansa on 04.07.2018. There is, thus ample evidence on record to conclude that respondent no.2 – accused has violated condition No. (iv) and tampering with the prosecution witnesses. This Court is satisfied that respondent no.2 – accused having duped the gullible investors with lakhs of rupees is now threatening the witnesses not to depose against him and continuing to violate the condition No. (iv). The above facts about the conduct of the respondent no.2 – accused is also evident from an order

passed by the trial Court though on earlier occasion i.e. on 16.08.2017 which is reproduced below:-

“xxxx I have also gone through the list of witnesses of this case and I found that there are total 19 independent and private witness. The nature of their evidence is as similar to the complaint because all these prosecution witnesses have earlier deposed under Section 161 Cr.P.C., before the police the accused has cheated the said person by taking money from them all and the amount of the said money varies from Rs. 4 lacs to 70 lacs approximately from each said prosecution witness and all these prosecution witnesses are still required to be examined in this case by the prosecution. Under the above stated clear cut factum of threat by the accused through the police as has been alleged in the open Court by the said witnesses, it is required in the interest of justice to protect the life and liberty of all these prosecution witnesses so that, the accused may not hamper with the evidence of the prosecution by giving similar threats even to the other prosecution witnesses. As far as the case pertains to cancellation of bail of accused is concerned, I found that the bail has been granted to the main accused namely Sukhwinder Singh @ Sukha Bhau by the Hon'ble Punjab & Haryana High Court, Chandigarh in CRM No. M-30877 of 2016, the said order of the Hon'ble High Court dated 18.01.2017 has already on the file. At this stage, the ld. Counsel for complainant has conveyed to the Court orally that the complainant will move to the Hon'ble Punjab & Haryana High Court, Chandigarh for seeking cancellation of bail of the said accused namely Sukhwinder Singh @ Sukha Bhau, so, under these circumstances. It is ordered that the entire matter should have been conveyed to the SSP, Mansa, so that, an

appropriate disciplinary action may be taken against the concerned Senior Police Officer of Sardulgarh for his/their act and conduct as has been alleged by the prosecution witnesses and if the same may be found to be true. But prima facie this Court is satisfied then something mischievous is going on in this case that too on the part of accused persons and seems to be in connivance with some officers of police of Sardulgarh. After the said happening in the open Court, I also found it proper to personally summon the SHO PS Sardulgarh in the Court, so that, the gravity of above stated mischievous act may be conveyed to him and he may be directed to protect the life and liberty of all the prosecution witnesses of this case. On the summoning of SHO, PS Sardulgarh telephonically through Naib Court, he has come present in the Court and the entire matter has been conveyed to him. Further, it is ordered that SHO PS Sardulgarh shall under all circumstances whatsoever, it may be, protect the life and liberty of all the private and independent prosecution witnesses of this case till their deposition in this case and also produce the independent witnesses which will be ordered by this Court on each and every date of hearing so that trial may be concluded as early as possible. xxxx”

In that order, the trial Court has also found that the accused was threatening the witnesses and it is necessary to protect the life and liberty of the witnesses and to take steps to prevent tampering of the prosecution evidence. The concerned S.H.O. was therefore, asked by the trial Court to look into the matter and extend the protection to the witnesses. Thus, the stand taken by the petitioners is correct on the facts as found by the trial Court as well. Respondent no.2 – accused cannot be allowed to breach the

rule of law and the process of administration of justice. To repeat this Court has shown mercy to respondent no.2 – accused in order to be given a chance by not cancelling his bail on the earlier occasion, but this Court finds that he is taking undue advantage of the same and he thinks that he is above the law. Respondent no.2 – accused has not denied any of the averment in the petition.

To sum up, the present application for cancelation of bail will have to be allowed. There are many gullible investors who have been duped by him. Unfortunately, such is the scenario in the country. Stern action is needed against fraudsters . In the result, I make the following order:-

ORDER

- (i) CRM M-45663 of 2018 is allowed.
- (ii) Regular bail granted to respondent no.2 – Sukhwinder Singh @ Sukha Bhau son of Sh. Jarnail Singh vide order dated 18.01.2017 in CRM M-30877-2016 is cancelled.
- (iii) Respondent no.2 – Sukhwinder Singh @ Sukha Bhau son of Sh. Jarnail Singh is directed to surrender before the trial Court within a period of two weeks from today. He shall be sent to jail thereafter.

January 18, 2019
vkd

(A.B. Chaudhari)
Judge

Whether speaking / reasoned : Yes / No

Whether reportable : Yes / No