

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50255-2018

Date of Decision: 07.11.2019

Pawanjeet Singh

.....Petitioner

Vs.

The State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Abhinav Sood, Advocate,
for the petitioner.

Mr. B.S. Sewak, Addl. A.G., Punjab.

Mr. T.S.Sangha, Senior Advocate, with
Mr. H.S.Sangha, Advocate,
for respondent no. 2.

AMOL RATTAN SINGH, J. (ORAL)

Learned counsel for the petitioner, after pointing to the order dated 15.11.2018, by which notice of motion was issued in this petition, submits that not even basic 'precautions' were taken at time that respondent no. 2 was admitted to bail by the Additional Sessions Judge, Ludhiana.

He thereafter points to the reply filed by Sh. Dharamveer Kumar, ACP (Cyber Crime), Ludhiana, in response to the petition (dated 23.05.2019), from which he further points to paragraph 6 therein, which states as follows:-

“That this Hon'ble Court vide its order dated 15.11.2018 was pleased to direct the State to take into custody the passport of respondent no. 2 forthwith, without any delay. However, respondent no. 2 has furnished a duly sworn affidavit dated 07.01.2019

before the Investigation Officer that his passport has since been lost. Accordingly, Look Out Circular (LOC) of respondent no. 2 has been got issued so that he may not flee from India. Accused Dharamveer has also been granted anticipatory bail by the learned Additional Sessions Judge, Ludhiana. However, third accused namely Harminder Singh is absconding and efforts are being made to arrest him.”

Thus, he submits that despite the fact that respondent no. 2 obviously filed a false affidavit before the Investigating Officers/the ACP, and thereafter even attempted to flee the country, with him having been actually apprehended at the airport on 24.09.2019, with his passport taken into custody by the arresting officer at the airport, he does not deserve the concession of anticipatory bail granted to him by the trial Court and it needs to be withdrawn.

Upon query to learned State counsel, he has produced from the case file an affidavit stated to be executed by respondent no. 2 Rahul (in Gurmukhi), on 07.01.2019, stating essentially to the effect that his passport and other documents as were being carried by him in a hand bag were lost “in the 9th and 10th month” (seemingly September and October of 2018), and that despite him trying to find the bag, it has not been traced out.

Upon the aforesaid facts, as contended, being put to Mr. Sangha, learned Senior Counsel appearing for respondent no. 2, he submits that, firstly, if any cancellation of bail is sought as was granted to respondent no. 2 by the Additional Sessions Judge, the appropriate course for the petitioner should have been to approach that court, instead of invoking jurisdiction of this court, even in terms of sub-section (2) of Section 439 of the Cr.P.C. (read with Section 482 thereof).

He next submits that, on merits, in any case, respondent no. 2 had given up charge of the post that he was holding in the company (of which the petitioner is an authorized representative), on 12.02.2018, with the FIR having been registered on 26.07.2018, and therefore the allegation made against respondent no. 2 do not stand substantiated and hence the concession of bail is not required to be withdrawn.

Learned State counsel, on instructions, submits that in fact now the passport of respondent no. 2 has been obtained by the investigating officer in the present case.

The passport having been produced in court today, it is seen that a stamp of the immigration authority at New Delhi, dated 24.09.2019, has been superimposed with another stamp, stating "Cancelled Without Prejudice".

Two boarding passes issued by the airline, Cathay Pacific, seen to be in the name of Rahul Malhotra, enabling him to travel first from Delhi to Hong Kong and then from Hong Kong to Sydney, have also been produced in court by learned State counsel, with the first boarding card (for the Delhi-Hong Kong leg of the journey) also seen to be stamped similarly.

The passport and the boarding card have been returned to learned counsel.

Keeping in view the fact that respondent no. 2 is actually shown to have filed an affidavit with the investigating agency to the effect that he had lost his passport and thereafter, he despite being on concession of anticipatory bail granted to him by the Additional Sessions Judge, Ludhiana, having attempted to flee the country, I do not see any reason for the concession to be extended any further to him.

Consequently, this petition is allowed, with learned State counsel also not opposing the petition.

Hence, the concession of pre-arrest/anticipatory bail granted to respondent no. 2 by the learned Additional Sessions Judge, Ludhiana, vide his order dated 16.08.2018, is withdrawn, with the bail ordered to be cancelled and the bail and surety bonds ordered to be forfeited to the State.

November 07, 2019
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.