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

**CRM No.M-61516 of 2018 (O&M)
Date of Decision: February 13, 2019**

Rashid

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sachin Mittal, Advocate
for the petitioner.

Mr.Tanuj Sharma, AAG, Haryana
for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.920 dated 20.11.2018 under Sections 379, 420 and 34 IPC, registered at Police Station Sadar, Palwal.

Notice of motion was issued. Learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

When this petition was pending before this Court, it was brought to the notice of this Court by learned State counsel that learned CJM, Palwal, has released the accused-petitioner on bail during the pendency of the present petition. A detailed report of learned CJM, Palwal

was called as to whether the petitioner has been released on bail or not and if he has been released on bail during the pendency of the present petition, then a complete copy of the bail record i.e. bail application etc. be sent to this Court and learned CJM/Duty Magistrate, Palwal was directed to specifically mention whether it was brought to his notice regarding bail petition pending before this Court and under which circumstances, the bail was granted.

The report of learned CJM, Palwal has been received in which it is stated that it was nowhere categorically mentioned in the bail application that accused-petitioner has filed bail petition before this Court (High Court) and the same is still pending adjudication. Even during the course of arguments, this fact was not disclosed before learned CJM, Palwal. It is also stated that affidavit was filed along with the bail application that he (accused) will withdraw the bail petition filed before the High Court prior to the decision by the Magistrate in that bail application.

From the perusal of the report, it is clear that, though the affidavit is attached with the file, but these facts, in no way, were brought to the knowledge of learned CJM, Palwal nor case was withdrawn from this Court. All these facts show the conduct of the petitioner that he played fraud upon lower Court by not disclosing the fact regarding pendency of the bail petition before this Court and secondly, he was fully knowing the fact that his bail petition is pending before this Court and he intentionally concealed this fact from learned CJM, Palwal.

Keeping in view the above facts, the present petitioner is not entitled to benefit of bail in this case. Therefore, present petition stands

dismissed.

As the petitioner-accused has obtained the bail order from learned CJM, Palwal by concealing the pendency of bail petition before this Court and has played fraud before learned trial court, therefore, the order passed by learned CJM, Palwal, is set-aside and bail granted to the petitioner-accused stands cancelled. The petitioner-accused is directed to surrender before learned CJM, Palwal immediately. If the petitioner does not surrender before learned CJM, Palwal, then he be got arrested through non-bailable warrants. However, it is made clear that after the surrender, the accused is entitled to file regular bail application disclosing all the facts and this order will have no effect on the proceedings of that bail application, if any filed, which is to be decided independently.

In view of the fact that main case is decided and keeping in view the conduct of the petitioner, CRM No.5267 of 2019 for tendering unconditional apology is also dismissed.

February 13, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No