

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

Date of decision: 09.01.2020

1. CRM-M-4117-2019 (O&M)

Het Ram Garg and another

....Petitioners

Versus

State of Haryana and another

....Respondents

2. CRM-M-1975-2019 (O&M)

Het Ram Garg and another

....Petitioners

Versus

State of Haryana and another

....Respondents

3. CRM-M-4227-2019 (O&M)

Het Ram Garg and another

....Petitioners

Versus

State of Haryana and another

....Respondents

4. CRM-M-4235-2019 (O&M)

Het Ram Garg and another

....Petitioners

Versus

State of Haryana and another

....Respondents

5. CRM-M-4264-2019 (O&M)

Het Ram Garg and another

....Petitioners

Versus

State of Haryana and another

....Respondents

6. CRM-M-53926-2018 (O&M)

Het Ram Garg and another

....Petitioners

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sunil Chadha, Sr. Advocate with
Mr. Manish Mehta, Advocate
for the petitioners (in all cases).

Mr. Naveen Sheoran, DAG, Haryana.

Mr. J.S. Bedi, Sr. Advocate with
Mr. S.S. Brar, Advocate
for respondent No.2 (in CRM-M-1975-2019).

Mr. Gaurav Mohunta, Advocate and
Mr. Sudhir Kashyap, Advocate
for respondent No.2 (in CRM-M-4117, 4227 & 4235-2019).

Mr. Rahul Vats, Advocate
for respondent No.2 (in CRM-M-4264-2019).

Ms. Baljit Mann, Advocate
for respondent No.2 (in CRM-M-53926-2018).

ARVIND SINGH SANGWAN, J.

This order shall dispose of aforementioned six petitions praying

for cancellation of regular bail granted to respondent No.2-accused Sandeep Kumar, Kishan Choudhary, Raj Kumar @ Raju, Surender Chaudhary @ Pammy Chaudhary and Keshav Sanghi, vide orders dated 10.01.2019, 07.01.2019, 21.01.2019, 15.01.2019 and 10.01.2019 respectively, passed by the Additional Sessions Judge, Narnaul, in FIR No.525 dated 07.10.2018 under Sections 420, 469, 294, 120-B IPC, Section 66-D of the Information and Technology Act, 2000 and Sections 201/384 IPC and Sections 67, 67A and 67E of I.T. Act (added later on), registered at Police Station City Narnaul, District Mahendergarh and for cancellation of anticipatory bail granted to respondent No.2-accused Ashok Chaudhary, in the aforesaid FIR, by the Sessions Judge, Narnaul, vide order dated 13.11.2018.

Brief facts of the case are that as per allegations in the FIR, registered at the instance of complainant Hetram Garg, Gopal Sharan Garg is his cousin and he was elected as President of Sanathan Dharam Education Board in the elections held in the year 1995 and his opposite group headed by Kishan Chaudhary and his brother Surender Kumar Chaudhary, in collusion with some other persons, tried to interfere in his management over the institution, upon which civil litigation ensued between them. Civil Suit of Gopal Sharan and his associates was decreed by the trial Court and the appeal of his opponents was dismissed by the lower appellate Court and also by this Court. During that litigation, a receiver was appointed by this Court, who also conducted the elections, wherein again Gopal Sharan Garg and his associates had won. Thereafter, Kishan Chaudhary and his group started making false complaints against Gopal Sharan Garg etc. with local administration, which

were found false. The police initiated proceedings under Sections 182/211 IPC against Ashok Chaudhary, who is brother of Kishan Choudhary and Surender Chaudhary. Thereafter, the opponents of Gopal Sharan Garg had hatched a conspiracy to make him defame. On 28.09.2018, Surender Chaudhary made a phone call from his mobile phone No.9416065705, on the phone No.9416065831 of complainant Het Ram Garg, asking him to meet in connection with a secret urgent matter belonging to personal affairs of his family. Thereafter, on 29.09.2018 at about 8:30 AM, Surender Chaudhary alongwith one young boy went to house of the complainant and they carried a laptop. On asking by the complainant, Surender Chaudhary told him that he was having a CD against Gopal Sharan Garg and he wanted to display the same. Surender Chaudhary took out a pen drive and gave it to his companion and asked him to play in the laptop. The laptop displayed an obscene video, wherein a person having similar appearance as of his brother was found in compromising position with a woman and the video pictures were very obscene. The complainant told him that his brother was not of such character and could not do such act and the said video did not belong to him. Surender Chaudhary threatened him that he would put at stake the honour and reputation of his family by making public the said obscene video, as a result of which his brother and all the family members would not be in a position to face the public. Despite repeated requests of the complainant, initially Surender Chaudhary remained adamant, but later on he told him that if he wanted to save the honour and respect of his family and to prevent that obscene video being publicly viral, to ask his brother Gopal Sharan Garg to

quit Sanatan Dharam Sabha and its institutions and to hand over the charge of school and Dramatic Club to them and also to give them permission in writing for organizing Ramleela and other Dramas in the school ground. The complainant told him that his brother was away to Jaipur to attend a meeting and they would discuss the same after 2-3 days on his return. Surender Chaudhary again told him to make his brother understand, otherwise he would get a rape case registered from woman appearing in video against him, would get him lodged in jail for whole of life and put at stake the honour and respect of their family. Surender Chaudhary also informed him that all those articles were in their possession and also told him to take decision after understanding the pros and cons. On asking about the source of video and place of incident, Surender Chaudhary told him that he had nothing to do with the same and such like acts were very easy for them. The complainant was shocked and feared. Surender Chaudhary left the place with his pen drive and laptop and the boy accompanying him. On return of Gopal Sharan Garg from Jaipur, complainant apprised him with said incident, upon which his brother told him that it was fake and forged video and nothing of the sort had happened. It is further alleged that Gopal Sharan Garg had undergone operation of knee replacement on 04.07.2018 in Jaipur Hospital and thereafter, he remained on bed rest. He has been getting regular physiotherapy and leaves the town only in case of necessity. He is 62 years old, having married children and also having grandchildren. During the investigation, Raj Kumar @ Raju was arrested on 24.10.2018 and he had made disclosure statement that Keshav Sanghi had paid him ₹1,00,000/- for giving video to

him, which was prepared by him in Green Lotus Hotel, Delhi. He has further disclosed that the mobile, with which video was prepared, was sold by him, but the video was downloaded in new mobile and later on, he had deleted the same, after coming to know that the said video had become viral. The police had also associated the person, who had accompanied Surender Chaudhary to house of the complainant and had displayed the video in laptop. Thereafter, respondents-accused were arrested and later on, they were granted the concession of regular bail/anticipatory bail on different dates considering the allegations levelled against them.

Learned senior counsel for the petitioners has primarily argued that while granting the bail to respondents-accused, the Additional Sessions Judge has not taken into consideration the serious allegations levelled against them. With regard to respondent-accused Sandeep Kumar, the Additional Sessions Judge had observed that as per the prosecution version, CD, in which petitioner No.2-Gopal Sharan Garg was found in a compromising position with a lady, was prepared by accused Raj Kumar @ Raju about two years ago, who was driver of Gopal Sharan Garg and Sandeep Kumar had no concern with preparation of the CD. Similarly, with regard to accused Keshav Sanghi, it was observed that his name was not mentioned in the FIR.

Learned senior counsel for the petitioners has further argued that while granting regular bail to respondent-accused Kishan Choudhary, the Additional Sessions Judge had not taken into consideration that his anticipatory bail was dismissed and even the SLP filed before the Hon'ble Supreme Court was also dismissed and specific role is attributed to him.

A perusal of the order dated 07.01.2019, granting regular bail to Kishan Choudhary, shows that the prosecution version was discussed in detail and name of this person surfaced in the disclosure statement of Raj Kumar @ Raju, driver of Gopal Sharan Garg, along with Keshav Sanghi and Surender Chaudhary @ Pammy Chaudhary.

With regard to respondent-accused Raj Kumar @ Raju, it is submitted that he was the main accused and the Additional Sessions Judge has not looked into the allegations levelled against him.

A perusal of the order dated 21.01.2019, granting regular bail to Raj Kumar @ Raju, shows that he was granted the concession of regular bail, considering the fact that recovery of the CD has been effected, which was prepared two years ago and this accused was in long custody and the investigation was complete.

Learned senior counsel for the petitioners has next argued that even against Surender Chaudhary @ Pammy Chaudhary, there are direct allegations, however, while granting regular bail to him, it was observed that the complainant as well as accused are having routes in the society and therefore, there is no possibility of tempering of any evidence and considering the custody part, this accused was also granted the concession of regular bail. It is further argued that accused Ashok Choudhary was granted the concession of anticipatory bail, considering the fact that his role was different to other accused persons and only allegation against him was that he has told co-accused Sandeep Kumar to keep the pen drive and laptop in his safe custody.

These petitions for cancellation of regular bail/anticipatory bail granted to all the accused persons have been moved in a manner, as if this Court is re-appraise the satisfaction recorded by the Sessions Judge/Additional Sessions Judge, who have granted the regular bail/anticipatory bail to all the accused persons, by passing different detailed orders, considering the role of each accused and also considering the length of custody undergone by them as well as status of the investigation.

It is worth noticing here that all the accused persons were granted bail after the report under Section 173 Cr.P.C. was filed.

Learned counsel appearing for respondent No.2-accused, in their respective cases, have, however, opposed the prayer on the ground that in none of the petitions filed by the petitioners, the grounds, on which the bail once granted, can be cancelled, are pleaded. Learned counsel for the respondents-accused have relied upon a judgment in **Ms. X Vs. State of Telangana and another, 2018 (2) RCR (Criminal) 101**, wherein the Hon'ble Supreme Court, while relying upon the earlier judgment in **Central Bureau of Investigation, Hyderabad Vs. Subramani Gopalakrishnan, 2011 (2) RCR (Criminal) 946**, has held as under: -

“It is also relevant to note that there is difference between yardsticks for cancellation of bail and appeal against the order granting bail. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail already granted. Generally speaking, the grounds for cancellation of bail are, interference or attempt to interfere with the due course

of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concessions granted to the accused in any manner. These are all only few illustrative materials. The satisfaction of the Court on the basis of the materials placed on record of the possibility of the accused absconding is another reason justifying the cancellation of bail. In other words, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.”

Learned counsel for the respondents-accused have also relied upon **Lachhman Dass Vs. Resham Chand Kaler and another, 2018 (1) RCR (Criminal) 967**, wherein a similar view has been taken by the Hon’ble Supreme Court.

Learned counsel for the respondent No.2-accused have submitted that the accused persons have neither misused the concession of bail nor have tried to abscond from the process of law.

In reply to a Court query, learned senior counsel for the petitioners as well as learned State counsel, on instructions from SI Jai Kishan, could not dispute that subsequent to grant of bail, the petitioners have not filed any complaint with the police authorities regarding misuse of concession of regular bail/anticipatory bail by the accused persons, in any manner. Learned State counsel, on the basis of affidavits of Deputy

Superintendent of Police, Hodal, filed in all the cases, in which detail of the investigation carried out by the police and role of the accused persons, is given, could not dispute the factual position. However, nothing is stated in these affidavits that at any stage, the respondents-accused have misused the concession of bail.

After hearing learned counsel for the parties, finding that no grounds, in view of judgment of the Hon’ble Supreme Court in **Ms. X’s** case (supra), are made out for cancellation of regular bail/anticipatory bail granted to aforesaid accused persons.

Accordingly, all these petitions are dismissed.

[**ARVIND SINGH SANGWAN**]
JUDGE

09.01.2020
vishnu

Whether speaking/reasoned Yes/No

Whether reportable Yes/No