

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-16316 of 2019 (O&M)

Date of decision : 14.1.2020

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Barish

.....Petitioner

vs.

State of Haryana and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Saleem Ahmed, Advocate
for the petitioner.

Ms. Harpreet Kaur, Assistant Advocate General,
Haryana.

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H. S. Madaan, J. (Oral)

Kayam – an accused in FIR No. 214 dated 18.6.2018 for offences under Section 346 IPC and Sections 365, 376-D IPC (added later on), registered with Police Station Chand Hut, District Palwal, was granted regular bail by Additional Sessions Judge, Palwal, vide order dated 9.10.2018. While granting bail, following conditions were imposed by learned Additional Sessions Judge :-

- a. That the applicant shall attend the Court in accordance with the conditions of the bond executed by him.

- b. That the applicant shall not commit an offence similar to the offence of which he is accused of.
- c. That the applicant shall not directly or indirectly make any inducement, threat or promise to any of the witnesses or to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court or to any police officer.
- d. That the applicant shall not tamper with the evidence and shall not leave India without prior permission of the court concerned.”

Such applicant-accused is presently on bail. The complainant in the said FIR had approached this Court by way of filing a petition under Section 439 (2) Cr.P.C., praying for cancellation of bail granted to Kayam, for the reason that he has violated the terms and conditions of the order vide which he had been granted bail, in as much as, he has been threatening the petitioner and his family members and pressurizing them to compromise the matter.

Notice of the petition was given to the respondents.

The State of Haryana has filed reply to the petition, submitting therein that the accused in question has in fact violated the terms and conditions of the bail order.

Under the provisions of Section 439 (2) Cr.P.C. a High Court or Court of Session may direct that any person who has been released on bail under this Chapter, be arrested and committed to

custody.

In that way, the Court of learned Additional Sessions Judge, Palwal, who had granted the bail, can certainly order cancellation of bail and direct arrest of applicant-accused, if he is found to have violated the terms and conditions of the order vide which he was granted bail. The complainant has come to this Court directly without first approaching learned Additional Sessions Judge, Palwal, who had granted the bail.

Therefore, the present petition is disposed of relegating the petitioner to the remedy of approaching the Court of Additional Sessions Judge, Palwal, who had granted regular bail to accused -Kayam, seeking cancellation of bail for the reason of violation of the terms and conditions of the order vide which bail had been granted.

14.1.2020
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No