

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-32431-2021 (O&M)

Date of decision : 14.12.2021

Sukjinder Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Raj Kumar Arya, Advocate
for the petitioner.

Mr.Sukhbeer Singh, AAG, Punjab.

Mr.Inderjit Sharma, Advocate
for respondents no.2 and 3.

VIKAS BAHL, J.(ORAL)

CRM-41821-2021

Allowed as prayed for. Written reply filed on behalf of
respondents no.2 and 3 is taken on record.

CRM-M-32431-2021

This is a criminal miscellaneous petition under Section 439(2)
Cr.P.C. for cancellation of anticipatory bail granted by a co-ordinate Bench
of this Court vide order dated 12.04.2019 (Annexure P-3) and order dated
09.07.2019 (Annexure P-4) to respondents no.2 and 3, respectively in FIR
no.67 dated 04.04.2018 (Annexure P-1) registered under Sections 420, 406,
120-B IPC at Police Station City Gurdaspur, District Gurdaspur.

Learned counsel for the petitioner has submitted that in the

petitioner-complainant against respondents no.2 and 3 and other persons. It is further submitted that vide order dated 12.04.2019, respondent no.2-Navneet Singh was granted anticipatory bail and vide order dated 09.07.2019, respondent no.3-Ravneet Kaur was granted anticipatory bail. The order dated 09.07.2019 has been highlighted to show that respondent no.3 was granted permission to visit abroad, i.e. Italy for a period of one month. It is further submitted that even as per the reply filed by respondents no.2 and 3, it has been admitted that respondent no.3 was abroad for a period longer than the period which was granted vide the said order. It is further argued that the same is in violation of the order granting anticipatory bail and thus on the said ground, the anticipatory bail granted to respondent no.3 should be cancelled. It is further submitted that as far as respondent no.2 is concerned, said respondent no.2 had tried to threaten a witness namely Surjit Singh and regarding the same, DDR no.016 dated 04.06.2021, has been registered, which is annexed as Annexure P-2 and as per the said DDR, respondent no.2 has apologized to Surjit Singh. It is submitted that on the said ground also the anticipatory bail granted to respondent no.2 deserves to be cancelled.

Per contra learned counsel appearing for respondents no.2 and 3 have submitted that the present petition for cancellation of anticipatory bail is not maintainable inasmuch as the challan has already been presented in the Court and respondents no.2 and 3 have already submitted their bail bonds. It is further submitted that the plea raised by the petitioner to the effect that respondent no.3 has stayed abroad without seeking any further permission is factually incorrect inasmuch vide order dated 04.06.2020, the Court of Chief Judicial Magistrate, Gurdaspur, after considering all the

factors including the past conduct, granted further permission to visit abroad for a period of three months. It is also submitted that thereafter, respondent no.3 had come back to India and further, vide a detailed order dated 10.06.2021, respondent no.3 was again permitted by the Court of Chief Judicial Magistrate, Gurdaspur to go abroad till 15.12.2021. It is submitted that at the time of passing of said order, counsel for the complainant / petitioner was also present and the past conduct of respondent no.3 was duly considered before the said order was passed. It is further stated that respondent no.3 would abide by all the terms and conditions of the order granting the anticipatory bail and would be coming back to India on 15.12.2021 in accordance with the said order passed. With respect to respondent no.2, it is highlighted that the DDR dated 04.06.2021 does not show as to on what ground the application was moved by Surjit Singh and in fact the name of Sukhjinder Singh is also appearing and said Sukhjinder Singh has also been stated to have apologized to Surjit Singh. It is argued that a perusal of the said DDR would show that it was not reported that there was any threat or intimidation asserted by respondent no.2 to either the petitioner or to any of the witnesses and it has been argued that in fact, Surjit Singh son of Sarbans Singh, was earlier serving in Judicial Department at Gurdaspur and after retirement, he got a degree of law and he had managed to get the said report solely on account of collusion with the police officials in order to use the same against respondent no.2. It is argued that no incident had taken place much less, any incident wherein respondent no.2 might have in any way threatened the said Surjit Singh and respondent no.2 being well aware about the conditions of the anticipatory bail, would not possibly commit the mistake of threatening Surjit Singh who has a legal

background. It is submitted that the said document has been created only to make out a false case of cancellation of anticipatory bail. Reference has been made to paragraph 4 of the reply in which it has been detailed that respondent no.2 is a permanent resident of village Ghot Pokhar, Tehsil and District Gurdaspur which is at a distance of 5 kilometers from the residence of Surjit Singh and thus, there was no occasion for respondent no.2 to restrain the said witness and in respect of respondent no.3, it has been argued that she is a lady who is residing at Hoshiarpur and she is residing at a distance of 50 kilometers from the house of Surjit Singh and is also a citizen of Italy and thus, the question of her restraining / threatening said Surjit Singh does not remotely arise. It is further stated that cancellation of bail is on a different pedestal than grant of bail and cancellation of bail which would interfere with the liberty of respondents no.2 and 3 and should be ordered only if a very strong case has been made out for the cancellation of bail already granted.

Learned State counsel has also opposed the application for cancellation of bail and submitted that the challan has already been presented and charges have been framed.

This Court has heard learned counsel for the parties and has perused the paper book.

Perusal of the order dated 04.06.2020 passed by the Chief Judicial Magistrate, Gurdaspur, (which is taken on record) would show that after considering the past conduct of respondent no.3, the Court was pleased to grant permission to respondent no.3 to go abroad. The relevant part of said order is reproduced hereinbelow:-

“4. Perusal of file shows that present FIR has been registered against accused-applicant under Sections

420, 406, 120-B of IPC. As per photocopy relied upon by the applicant-accused, the date of her concerned document is mentioned as 12.06.2020. Perusal of file further shows that accused Ravneet Kaur has also been complying with the orders by depositing cash security and getting her presence marked after returning to India, as per order dated 12.07.2019 and 15.07.2019 passed by Ld. Predecessor of this Court. Keeping in view of aforesaid discussion as well as past conduct of accused where she has been regularly complying with directions of the Court for the purpose of visiting abroad, the application filed by accused/applicant Ravneet Kaur is allowed and accused is allowed to go abroad i.e. Italy for three months from the date of her furnishing bank guarantee in the sum of Rs.6.00 Lacs, subject to condition to follow the norms of quarantine on returning in India as per the guidelines issued by Ministry of Home Affairs as well as guidelines of State Government related to outbreak of Novel Coronavirus (COVID-19). Let, the file be put up on 29.07.2020, the date already fixed.”

Subsequently vide another detailed order dated 10.06.2021, further permission was granted to respondent no.3 to stay abroad till 15.12.2021. The relevant part of said order is reproduced hereinbelow:-

“CNR No.PBGD03-003545-2019. CIS No.CHI-479-2019.

State Versus Navneet Singh and others.

Present: Shri Bhupinder Sharma, Ld. APP for the State.

Shri S.S.Saini, Advocate, for complainant.

Shri Deepak Puri, Advocate for accused Navneet Singh, Ravneet Kaur, Davinder Kaur, Surinder Kaur, Jaswinderpal Kaur.

Accused Amarjit Kaur and Narinder Singh P.O.

Proceedings against accused Jarnail Singh

abated, vide order dated 19.01.2021.

ORDER:

1. *Heard on application for granting permission to go abroad moved by applicant-accused Ravneet Kaur.*

xxx xxx xxx

4. *I have heard learned counsel for the respective parties and have also gone through the file very carefully and minutely.*

5. *Perusal of file shows that present FIR has been registered against accused-applicant under Sections 420, 406, 120-B of IPC. Perusal of file further shows that accused Ravneet Kaur has also been complying with the orders by depositing cash security and getting her presence marked after returning to India, as per order dated 04.06.2020 passed by this court. Applicant-accused has specifically mentioned in her request that she is pregnant and being also citizen of Italy, she is intending to give birth to her child in Italy as her husband is there permanently. Application is coupled with medical history regarding pregnancy. So, keeping in view of aforesaid discussion as well as past conduct of accused and also keeping in view that the co-accused Navneet Singh has placed on record his passport as security of return of applicant-accused Ravneet Kaur, applicant has also placed on record photocopy of her passport and accused Davinder Kaur and Surinder Kaur have placed on record photocopies of their passports and applicant has also been regularly complying with directions of the Court for the purpose of visiting abroad, therefore, the application filed by accused/applicant Ravneet Kaur is allowed and accused Ravneet Kaur is allowed to go abroad i.e. Italy, subject to the condition to appear before the Court on 15.12.2021, from the date of her furnishing bank guarantee in the sum of Rs. 6,00,000/- (Rupees Six Lacs). In case, the applicant-accused Ravneet Kaur*

failed to return in India, the amount in question will be remitted to the complainant as the huge amount is involved in the present case regarding sending of complainant and his family members in abroad. The applicant-accused is further directed to follow the norms of quarantine on returning in India as per the guidelines issued by Ministry of Home Affairs as well as guidelines of State Government related to outbreak of Novel Coronavirus (COVID-19).

6. *Requisite bank guarantee furnished by applicant-accused Ravneet Kaur, which is checked and verified by Reader of this Court from the Manager of Punjab National Bank, Branch G.T.Road, Gurdaspur. Copy of order be sent to concerned Bank for not releasing the amount to applicant- accused Ravneet Kaur without the order of this Court.”*

A perusal of the above order would show that even counsel for the complainant / petitioner was present at the time of passing of said order and after considering the arguments of both sides as well as the past conduct of respondent no.3, permission was granted to respondent no.3 to go abroad till 15.12.2021. The said orders have not been annexed/referred to by the petitioner in the petition although from a perusal of the orders, it is apparent that the petitioner was aware about the said orders. Be that as it may, from the said orders, it is apparent that permission has been granted repeatedly to respondent no.3 to go abroad and as per learned counsel for respondent no.3, she has been abiding by the said orders inasmuch as necessary bank security has been duly furnished. Moreover, the investigation in the present case is complete and thus, the cancellation of anticipatory bail at this stage would serve no purpose. With respect to argument against respondent no.2

suffice it to say that a perusal of Annexure P-2 does not show as to on what grounds was the application moved by Surjit Singh and what dispute had taken place on account of which the petitioner and one Sukhjinder Singh had apologized to Surjit Singh. The application has neither been placed on record nor from the document (Annexure P-2), relied upon by the learned counsel for the petitioner can be stated that respondent no.2 had threatened Surjit Singh from giving his statement in the present case against respondent no.2.

Argument of the learned counsel for respondent no.2 to the effect that said Surjit Singh son of Sarbans Singh was earlier serving in Judicial Department at Gurdaspur and after retirement, he got a degree of law and respondent no.2 in such a situation was the last person to influence the said witness Surjit Singh, who has a legal background, cannot be ignored. There is nothing to show that respondents no.2 and 3 have tried to influence any of the witnesses.

The parameters of cancellation of anticipatory bail are different from parameters which have to be considered at the time of grant of anticipatory bail.

The Hon'ble Apex Court in Mahant Chand Nath Yogi (Supra) has observed in Paragraph 17 as under:

“17. This Court in Subhendu Mishra v. Subrat Kumar Mishra and another (2000 SCC (Cri) 1508) following the principles stated in Dolat Ram and others v. State of Haryana, [(1995) 1 SCC 349] has reiterated that there is a distinction between rejection of bail in a non-bailable case at the initial stage and the cancellation of bail already granted. Normally, very cogent and overwhelming grounds or circumstances are required to

cancel the bail already granted. In the present case, the High Court, it appears, did not bear the distinction in mind and cancelled the bail in a mechanical manner.”

It is not in dispute that in the present case challan has already been presented and respondents no.2 and 3 have submitted their bail bonds.

Thus, in view of the above, finding no merit in the present petition, the same is dismissed.

(VIKAS BAHL)
JUDGE

December 14, 2021
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No