

105 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33231-2021
Date of Decision: 17.08.2021

GURWINDER SINGH

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: Hon'ble Mr.Justice Deepak Sibal

Present: Mr.Puneet Kumar Bansal, Advocate for the petitioner
Mr.J.S.Ghumman, Deputy Advocate General, Punjab

Deepak Sibal, J. (Oral)

Case taken up through Video Conferencing.

Through the present petition filed under Section 439(2) Cr.P.C. the petitioner seeks cancellation of anticipatory bail granted to respondent No.2 in FIR No.172 dated 01.10.2020 registered under Sections 420, 465, 467, 468, 471, 506 IPC at police station Mamdot, District Ferozepur.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the petitioner filed a complaint with the police that respondent No.2 had sought and got appointment in the Indian Army on the basis of forged matriculation certificate, PAN card and Aadhar card. On the basis of the petitioner's complaint the aforesaid FIR was lodged. Apprehending arrest, respondent No.2 filed a petition under Section 438 Cr.P.C. before the Sessions Court at Ferozepur seeking therein anticipatory bail. In such petition on 19.04.2021, the Additional Sessions Judge, Ferozepur granted ad interim anticipatory

bail to respondent No.2 which was later confirmed after the State filed a report before the Court that respondent No.2 had joined investigation and was no longer required by the State for investigation purposes. The order passed by the Additional Sessions Judge, Ferozepur granting ad interim anticipatory bail as also the order confirming the ad interim anticipatory bail to respondent No.2 have been challenged through the present petition with a further prayer to cancel respondent No.2's anticipatory bail.

Learned counsel for the petitioner submitted that respondent No.2 has forged documents to join the Indian Army which affects national security; initially, when respondent No.2 had been granted ad-interim anticipatory bail he did not join investigation and therefore his conduct did not entitle him from getting his ad interim anticipatory bail confirmed; respondent No.2 was directed by the Trial Court to inform his Commanding Officer with regard to the pendency of the present case but he did not do so and only informed his superior officer and that it is yet to be deciphered as to who all were respondent No.2's accomplices in forging of the documents used by him.

In a recent judgment dated 20.07.2020 in CRM-M-19579-2020 – Naresh Kumar vs. U.T. Chandigarh and others this Court, on the issue of cancellation of bail, has held as follows:-

“The considerations at the time of grant of bail by either the High Court or the Court of Sessions are the gravity of the offence(s), the evidence on record, status of the accused with reference to the victim and witnesses, likelihood of the accused fleeing from justice and repeating the offence(s), possibility of the accused tampering with the evidence and/or influencing witnesses etc. These considerations are inclusive and not exhaustive.

Rejection of bail in non-bailable offence(s) at the initial stage and cancellation of bail already granted are required to be dealt distinctly. The considerations which may weigh with the Court to cancel the bail already granted are if the accused has tampered with the evidence or influenced witnesses, has interfered in the course of administration of justice or has evaded or attempted to evade the due course of justice or in any manner has abused the concession of bail granted to him. Bail may also be cancelled if the order granting the bail suffers from serious infirmities resulting in miscarriage of justice and if the Court while granting bail has ignored the relevant material on record or has taken into account irrelevant material. These considerations are again inclusive and not exhaustive. The primary object behind cancellation of bail is to ensure a fair trial which is threatened by aforesaid acts of an accused who is set at liberty through the order granting him bail.”

Through order dated 19.04.2021, on the conditions mentioned in the said order, the Trial Court granted ad interim anticipatory bail to respondent No.2. On being satisfied that the conditions imposed through the afore stated order had been complied with by respondent No.2 as also on the basis of a report furnished by the State that respondent No.2 had cooperated with the investigating agency and that his custodial interrogation was not required by the State, the ad interim anticipatory bail was confirmed by the Trial Court.

The State has not sought cancellation of respondent No.2's anticipatory bail. Even the petitioner does not complain that respondent No.2, while on bail, interfered in the cause of administration of justice or tampered with evidence or influenced witnesses or in any manner has abused the concession of bail granted to him.

The argument that the petitioner initially did not join investigation is rejected in the light of the final report filed by the State before the Trial Court to the effect that respondent No.2 had joined the investigation process and had cooperated with the same. As to who all may be respondent No.2's accomplices in the alleged forgery of documents is not a ground available to the petitioner to seek cancellation of respondent No.2's bail as respondent No.2 has already been questioned by the investigating agency who are satisfied with the same as also because the investigation in the case is still going on. So far as the ground that respondent No.2 did not inform the Commanding Officer with regard to the pendency of this case is concerned, the record reveals that respondent No.2 has filed an affidavit before the Trial Court that he has informed his superior officer. That would be considered sufficient compliance with the directions issued to him.

In view of the above no merit is found in the present petition.

Dismissed.

17.08.2021
gk

(Deepak Sibal)
Judge

Whether speaking/ reasoned: Yes/No
Whether Reportable: Yes/No