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

CRM-M-31447-2021
Date of Decision: 07.02.2022

Rajinder Kumar

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Paramjit Singh Jammu, Advocate,
for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana.

Mr. Aditya Sanghi, Advocate,
for respondent No.2.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (ORAL)

Status Report by way of affidavit of Deputy Superintendent of Police, Sirsa has been filed on behalf of the State of Haryana and reply has also been filed on behalf of respondent No.2 through e-mail, since the matter is being taken up through Video Conferencing and the print out of the same is taken on record.

Mr. P.S. Jammu, learned counsel for the petitioner has stated that he has received the replies of both the respondents and he has already perused the same. With the consent of all the learned counsel for the parties, the matter is being up today itself for final disposal.

The present petition has been filed by the petitioner under Section

439(2) read with Section 482 of the Cr.P.C. praying for cancellation of anticipatory bail granted to respondent No.2, which was registered under Section 307, 323, 147, 148, 149, 188 & 506 of the IPC and Sections 25 & 27 of the Arms Act, at Police Station Sadar Sirsa, District Sirsa. The interim bail was granted to respondent No.2 on 29.09.2020 in Criminal Miscellaneous No.M-30237 of 2020, which was confirmed on 28.01.2021 in view of the statement made by the learned State counsel that respondent No.2 had joined the investigation and is not required for custodial interrogation. Both the orders have been annexed with the present petition as Annexures P-2 & P-3, respectively. The condition imposed by Coordinate Bench of this Court while granting the bail were as follows:

- “1. That he shall make himself available for interrogation by a Police Officer as and when required;*
- 2. That he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer and;*
- 3. That he shall not leave India without prior permission of the Court.”*

It has been submitted by the learned counsel for the petitioner, who is seeking cancellation of bail, which was granted to respondent No.2 in an FIR No.155 of 25.05.2020, which was registered against respondent No.2 on the basis of the allegations that respondent No.2 along with some other co-accused had connived with each other and issued threats to the life of the petitioner and his family members and the subject matter of the dispute was that there was a land from where an irrigation pipe was to be laid down and there was a dispute with regard to the same between the parties and that the accused persons had come to the spot and obstructed the carrying out of the work and there were also

allegations regarding firing from a 12 bore gun and also from a pistol but nobody was injured.

The Respondent No.2, who is a lady aged 34 years filed the petition for anticipatory bail before this Court and was granted interim anticipatory bail on 29.09.2020 and the same was confirmed on 28.01.2021 (Annexures P-2 & P-3). Learned counsel for the petitioner submitted that after the grant of anticipatory bail by this Court, respondent No.2 again tried to obstruct the repair work of the pipeline and again the dispute had arisen between the parties and at the instance of the petitioner, and thus another FIR was lodged against respondent No.2 and other accused vide Annexure P-5 bearing FIR No.0259, dated 02.07.2021 under Sections 323, 34, 504 and 506 of the IPC. The allegations in the second FIR were that when respondent No.2 came to the spot for obstructing the repair work of the pipeline, she threatened that she will die but will not get the pipeline get repaired and will consume some poisonous substance by writing the name of the petitioner and the other family members and thereafter, investigation was conducted in the present case and Challan has been presented in the Court.

It is the argument raised by the learned counsel for the petitioner was that one of the conditions imposed by the Coordinate Bench of this Court was that respondent No.2 will not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the Court or any other Police Official. Such was a condition which is similar to the condition laid down in Sub Section 2 of Section 438 of the Cr.P.C. He submitted that after the grant of anticipatory bail to respondent No.2, she again came on the spot where the pipeline was being repaired by the petitioner and she obstructed the repair of the pipeline and threatened that she will commit suicide and therefore, it amounts to threat to the

person acquainted with the facts of the case and, therefore, the bail granted to respondent No.2 is liable to be cancelled.

On the other hand, Mr. Ranvir Singh Arya, learned Addl. A.G., Haryana has submitted that it is correct that after the grant of bail by this Court, the petitioner again went to the spot and threatened to commit suicide and tried to obstruct the repair work of the pipeline. He further referred to the affidavit filed by the State to contend that even a compromise was also got effected between the complainant and the accused party in the presence of the respectables but since the dispute pertains to some land and, therefore, in view of the dispute, respondent No.2 had been objecting for laying down and repair of the pipeline. He also submitted that besides the present FIR, respondent No.2 is also involved in two other cases, out of which in one case, she has since been acquitted and another one is at Annexure P-5. Learned Addl. A.G. Haryana has further submitted that the second FIR (Annexure P-5) was investigated and the Challan had been presented before the trial Court.

Mr. Aditya Sanghi, learned counsel appearing on behalf of respondent No.2 submitted that no ground is made out for cancellation of bail on the face of it. He submitted that so far as the lodging of the second FIR *qua* respondent No.2 is concerned, the same was also false and frivolous in view of the fact that respondent No.2 has never threatened anybody for the purpose of influencing any of the witnesses. The dispute was pertaining to the land since the land earlier belonged to the husband of the petitioner and his brother but husband's brother had sold the land to the petitioner and the civil litigation is already pending *inter se* between the husband of respondent No.2 and his brother. He further submitted that it was because of this reason that the second FIR came to be registered against respondent No.2.

Mr. Aditya Sanghi, learned counsel for respondent No.2 has further submitted that even otherwise also no case for cancellation of bail would be made out in view of the fact that it is not the allegation of the petitioner that any act has been done by respondent No.2 to threaten or induce or to promise any person acquainted with the facts of the case in order to dissuade him from disclosing the facts to the Court or the Police Officer whereas in the present case, an independent cause of action has arisen in which the FIR was registered and in which respondent No.2 has already been granted anticipatory bail by learned trial Court and, therefore, it was not the case of any inducement, threat or promise for the purpose of influencing or disclosing any facts to the Court or to the Police Officer, and therefore, there was no violation of any condition either under Section 438(2) of the Cr.P.C. or by virtue of the orders passed by this Court imposing the condition.

I have heard learned counsel for the parties.

The petitioner has filed the present petition for cancellation of bail on the ground that condition No.2 has contained in Annexure P-2 has been violated by respondent No.2. However, perusal of the record as well as on the basis of the submission raised by the learned counsel for both the parties, it appears that the second FIR (Annexure P-5) was lodged after a period of about 6 months of the order passed by this Court, whereby the bail of respondent No.2 was confirmed. A perusal of FIR (Annexure P-5) would show that it is a subsequent event and a subsequent cause of action on the basis of which the FIR was registered and in this FIR also, respondent No.2 has already been granted anticipatory bail by the learned trial Court.

It is a settled law that while considering the prayer for cancellation of bail, due care and caution has to be exercised particularly when the freedom of

an individual is involved. The cancellation of bail cannot be done in a causal manner. Apart from the same, respondent No.2 is a lady of the age of about 34 years. It is not a case of the petitioner that respondent No.2 has tried to influence any witness or threat or promise any witness for the purpose of dissuading him from disclosing any facts to the Court or to the Police Officer pertaining to the FIR in which she was granted anticipatory bail. But the entire case of the petitioner, who is seeking cancellation of bail rests upon the fact that after a period of six months of the grant of bail by this Court, respondent No.2 has committed another offence by threatening to commit suicide. Furthermore, a perusal of the affidavit filed by the State of Haryana and also hearing the submissions made by learned Addl. Advocate General, there is nothing to suggest or indicate that respondent No.2 has violated any condition contained in the bail order nor the State has taken up any stand that the bail of respondent No.2 should be canceled.

Therefore, considering the totality of circumstances of the present case, this Court does not deem it fit and proper to cancel the bail of respondent No.2. Consequently, the present petition is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

07.02.2022*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes/No |