

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

CRM-M-41877-2021

DECIDED ON: 6th SEPTEMBER, 2022

NAVTEJ KAUR RAI

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Harkirat Singh Ghuman, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

Mr. Kuldeep V. Singh Ahluwalia, Advocate
for respondent No.2.

SANDEEP MOUDGIL, J (ORAL)

This is a petition for setting aside the impugned order dated 18.02.2021 (Annexure P-12) whereby, respondent No.2 was granted regular bail by learned Judicial Magistrate Ist Class, SAS Nagar, Mohali in FIR No. 9, dated 13.03.2020, under Sections 406, 420 and 120-B IPC, registered at Police Station SAS Nagar, with further prayer for staying the operation of impugned order.

Learned counsel for the petitioner contends that an amount of Rs.54 lacs allegedly paid by the petitioner to respondent No.2 for onward transmission to co-accused-Gurchand Singh is stated to have been paid by respondent No.2 to the afore-said co-accused by way of material supplied by him, which the petitioner vehemently disputes and since this was primarily

the reason to grant bail to respondent No.2, the same is required to be cancelled.

Learned counsel for the petitioner also contends that vide order dated 08.07.2020, respondent No.2 was granted interim bail for a period of six weeks and on 19.08.2020, he was supposed to surrender, thereafter, he moved an application on 18.02.2021 and on the same very day, he was enlarged on regular bail, which creates ambiguity in the order. .

Learned counsel for the petitioner further submits that respondent No.2 had acted as a middleman between the petitioner and the co-accused Gurchand Singh for the agreement to sell of four flats and he, in connivance and conspiracy with his co-accused Gurchand Singh, duped a sum of Rs.1.5 crores of the petitioner. The respondent No.2 had received a sum of Rs.34 lacs from the petitioner on the pretext that he shall transfer the said amount to the account of Gurchand Singh but no record regarding the transfer of said money to Gurchand Singh came to light. Accordingly, he prays for cancellation of bail granted to respondent No.2.

Learned counsel for respondent No.2 submits that investigation in the case is complete and the challan stands presented. There is no misuse of the relief of bail granted to respondent No.2.

Heard.

Before proceeding to examine the matter, it is necessary to make a reference of the law laid down by the Hon'ble Supreme Court, in **Myakala Dharmarajam and others etc. v. State of Telangana and another, AIR 2020 SC 317**, the Supreme Court considering its earlier decision in **Raghubir Singh v. State of Bihar, (1986) 4 SCC 481** laid down the scope of

power to be exercised in cancellation of bail. It was held that it is necessary to examine whether the order passed by the Sessions Court granting bail is perverse and suffers from the infirmities which has resulted in the miscarriage of justice or there was likelihood of the accused tampering with the evidence. The relevant paragraphs are quoted below:

“7. In Raghbir Singh v. State of Bihar, (1986) 4 SCC 481 this Court held that bail can be cancelled where (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation, (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation, (v) there is likelihood of his fleeing to another country, (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency, (vii) attempts to place himself beyond the reach of his surety, etc. The above grounds are illustrative and not exhaustive. It must also be remembered that rejection of bail stands on one footing but cancellation of bail is a harsh order because it interferes with the liberty of the individual and hence it must not be lightly resorted to.

*8. It is trite law that cancellation of bail can be done in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant material indicating prima facie involvement of the accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in cancelling the bail **Kanwar Singh Meena v. State of Rajasthan & Anr. (supra).**”*

In the present case, the investigation is complete; the challan stands presented, there is no misuse of bail so far and there are also no allegations by the petitioner that the accused would be in a position to tamper with the evidence. The case is set up on the basis of a document which is already in possession of the investigating agency.

No case is, thus, made out for cancellation of bail granted to the accused.

The petition stands dismissed.

6th SEPTEMBER, 2022
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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>