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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.40981 of 2020 (O&M)

Date of decision: 14.01.2022

Harpreet Kumar Banger

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Aarti, Advocate for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Dinesh Kumar Chaudhary, Advocate
for the complainant.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for cancellation of bail granted to respondent No.2 namely Mast Ram in FIR No.10 dated 26.01.2018, registered under Sections 406 and 420 of the Indian Penal Code, 1860 (in short 'IPC') at Police Station Pojewal vide order dated 04.10.2018 (Annexure P-9) passed by the Sub-Divisional Judicial Magistrate, Balachaur, District S.B.S. Nagar.

Counsel for the petitioner/complainant has argued that on an allurement given by Mast Ram, the petitioner/complainant has paid Rs.11.00 lacs and he has not returned the amount back despite a compromise that he will execute a sale deed in favour of the complainant. It is stated that the petitioner/complainant has also filed a suit for specific performance before the Civil Judge (Jr. Division) wherein Mast Ram was directed for getting the sale deed executed but

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he has failed to comply with the said order. It is further submitted that the petitioner has moved an application before the Additional Sessions Judge, S.B.S. Nagar, which was dismissed on 19.10.2020. The operative part of the said order, dismissing the cancellation of bail application passed by the Additional Sessions Judge, S.B.S. Nagar, reads as follows:-

“9. It is also relevant to note that there is difference between yardsticks for cancellation of bail and appeal against the order granting bail. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail already granted. Generally speaking, the grounds for cancellation of bail are, interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concessions granted to the accused in any manner. The satisfaction of the Court on the basis of the materials placed on record of the possibility of the accused absconding is another reason justifying the cancellation of bail. In other words, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it not longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.

*10. In **Raghubir Singh vs State of Bihar, 1986 SCC (Cri) 511**, it has been stated that the grounds for cancellation under Sections 437(5) and 439(2) are identical namely bail granted under Section 437(1) or (2) or Section 439(1) 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 (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. These grounds are illustrative and not exhaustive. It must also be remembered that rejection of bail stands on one footing but*

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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.

11. For the aforesaid reasons, I do not find any force in the arguments raised by learned counsel for applicant/complainant, hence, present application is dismissed. File be consigned to the Record Room.”

During the course of arguments, counsel for the petitioner has submitted that respondent No.2 is putting pressure on the petitioner to effect a compromise, however, on a Court query, counsel for the petitioner submits that no complaint has been given to the police, in this regard that the petitioner is misusing the concession of bail or extending any threat either to the complainant or to the victim/witnesses.

Counsel for the State has argued that charges have been framed and the case is now fixed for recording the evidence of the prosecution witnesses.

In view of the above, I find no ground to cancel the bail granted to respondent no.2 vide order dated 04.10.2018 passed by the Sub-Divisional Judicial Magistrate, Balachaur, District S.B.S. Nagar, as neither there is any evidence of misuse of concession of bail nor there is any complaint given by the petitioner that respondent No.2 is extending any threat to the complainant or the other witnesses.

Dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

14.01.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No