

CRM-M-42926-2019

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

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Date of decision:17.10.2022

Dalwar Singh

...Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- None for the petitioner.

Mr. Rupinder Singh Jhand, Addl. A. G. Haryana.

Mr. Sumit Singh, Advocate,
for respondent No.2.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks cancellation of regular bail granted to respondent No.2, vide order dated 28.06.2019 passed by learned Addl. Sessions Judge (Vacation Judge), Yamuna Nagar, at Jagadhari, in case bearing FIR No.173 dated 17.06.2019, registered at Police Station Chhappar, District Yamuna Nagar, under Sections 295-A and 451 IPC.

It is the case of the petitioner that there is nothing on record to suggest that respondent No.2 is suffering from mental disorder, and that learned Addl. Sessions Judge, while passing the impugned order, had wrongly relied upon the observation slip dated 15.06.2019 (Annexure P-1) qua respondent No.2. The offence committed by respondent No.2 was recorded in the CCTV camera.

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On the other hand, learned counsel for respondent No.2 submits that learned Addl. Sessions Judge, while passing the impugned order, has rightly granted the benefit of bail to respondent No.2. Moreover, there is no allegation against respondent No.2 of misusing the privilege of bail or committing any misconduct after being admitted to bail. In such circumstances, the bail granted to respondent No.2 ought not to be cancelled.

I have heard the learned counsel for the parties.

It would be apposite to mention here 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.

The bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial as has been held by the Hon'ble Supreme Court in the case of Dolat Ram and others vs. State of Haryana, 1995 (1) SCC 349.

As per the prosecution version, respondent No.2 had urinated on the Lord Shiva Idol (Shivling) in the temple.

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Learned Addl. Sessions Judge, while granting regular bail to respondent No.2, has noticed that he (respondent No.2) had been in custody since 17.06.2019; that some of the villagers suffered the statement to the effect that respondent No.2 was suffering from mental illness and that the village Panchayat had decided to get him treated for the same on account of the poor financial condition of his family. Even the Investigating Officer also stated that respondent No.2 was suffering from mental illness. Moreover, there is no allegation against respondent No.2 of any misconduct after he has been granted the benefit of regular bail.

In view of the above, this Court is of the considered view that this is not a fit case where the bail granted to respondent No.2, vide order dated 28.06.2019 passed by learned Addl. Sessions Judge, Yamuna Nagar at Jagadhari, is to be cancelled.

Therefore, finding no merit in the present petition, the same is dismissed.

17.10.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No