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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-52588-2018(O&M)

Date of Decision: 22.08.2022

Vijay @ Vijai

....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. B.K. Bagri, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr. Sandeep K. Sharma, Advocate,
for respondents No.2 to 4.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439(2) of the Code of Criminal Procedure for cancellation of anticipatory bail granted to respondents No. 2 to 4 vide order dated 26.09.2018 (Annexure P-3) in FIR No.572 dated 25.08.2018, under Sections 307, 341, 323, 506, 34 IPC and also for setting aside the order dated 14.11.2018 (Annexure P-6) vide which the application filed by the petitioner for cancellation of bail was dismissed by the learned Additional Sessions Judge, Rohtak.

Respondents No. 2 to 4 filed application for grant of anticipatory bail before the learned Additional Sessions Judge, Rohtak in FIR No.572 dated 25.09.2018, under Sections 341, 323, 506, 307 IPC, Police Station Sampla, District Rohtak and vide Annexure P-3 the learned

Additional Sessions Judge, Rohtak granted anticipatory bail to all the aforesaid three persons. Earlier the FIR was registered under Sections 341, 323, 506 IPC but thereupon after investigation Section 307 IPC was also added. After the passing of the aforesaid order of anticipatory bail, an application was moved by the prosecution for cancellation of bail before the learned Additional Sessions Judge, Rohtak and vide impugned order Annexure P-6 the said application was dismissed. The learned Additional Sessions Judge, Rohtak while dismissing the application observed that the prayer for cancellation of bail is to be considered in view of the strong supervening circumstances since the question involved is the freedom of an individual. Once bail has been granted, then for the purpose of cancellation of bail there has to be strong and cogent reasons. The said application was filed by the prosecution on the ground that after the grant of bail the private respondents have tried to threaten one of the witness namely Azad Singh and thereafter on the basis of which the police registered the FIR No.644 dated 27.09.2018, under Sections 195-A, 506, 34 IPC at Police Station Meham. However, while considering the aforesaid factual position, the learned Additional Sessions Judge, Rohtak observed that although an FIR in this regard was registered but such a fact was not supported by any affidavit or by recording the statement of the said witness and there was no evidence in that regard. Without such proof a bail once granted cannot be cancelled. Furthermore, it was a case of injury and no further investigation has to be done and therefore, the learned Additional Sessions Judge, Rohtak dismissed the application for cancellation of bail.

The learned counsel for the petitioner argued that once an FIR has been registered under Sections 195-A, 506, 34 IPC against respondents

No. 2 to 4 on the ground of threatening and intimidating a witness namely Azad Singh, then bail granted to respondent Nos. 2 to 4 is liable to be cancelled and therefore, the order Annexure P-6 passed by the learned Additional Sessions Judge, Rohtak was erroneous. He further submitted that threatening of a witness is also one of the grounds on the basis of which bail can be cancelled.

On the other hand, learned Deputy Advocate General, Haryana has submitted that a reply by way of affidavit has been filed by the Deputy Superintendent of Police, Meham in which it has been stated that it is correct that an FIR No. 655 dated 27.09.2018 as aforesaid has been registered against respondent Nos. 2 to 4. He has however submitted on instructions from SI Rajesh Kumar that the aforesaid witness Azad Singh has already been examined at the time of trial and apart from the same, even the complainant has also been examined.

Mr. Sandeep K. Sharma, Advocate appearing on behalf of respondents No. 2 to 4 has opposed the present petition on the ground that the aforesaid witness namely Azad Singh on the basis of which the FIR was registered has already been examined apart from the fact that the complainant has also been examined. He further submitted that the mere lodging of the FIR would not mean that it becomes a ground for the cancellation of bail unless there is a strong evidence to show that respondent Nos. 2 to 4 have actually threatened and intimidated any witness.

I have heard the learned counsel for the parties.

Respondent Nos. 2 to 4 were granted anticipatory bail by the

learned Additional Sessions Judge, Rohtak vide Annexure P-3 and thereafter the prosecution moved an application for cancellation of anticipatory bail which was dismissed by the learned Additional Sessions judge, Rohtak vide Annexure P-6. The ground on the basis of which the application for cancellation of anticipatory bail was filed was that respondent Nos. 2 to 4 have tried to threaten and intimidate one of the witness namely Azad Singh and consequently an FIR under Sections 195-A, 506, 34 IPC was registered against them. However, the learned Additional Sessions Judge, Rohtak while considering the application for cancellation of anticipatory bail observed that the allegations were not supported by any affidavit or any statement of the witness and there was no evidence available as to whether there was any actual intimidation or threatening act by respondents No. 2 to 4. A perusal of the affidavit which has been filed by the State would show that it only mentions that an FIR under Sections 195-A, 506, 34 IPC was registered against respondent Nos. 2 to 4 but the affidavit is silent as to what is the material available with the State that respondent Nos. 2 to 4 have actually threatened and intimidated any of the witness. The FIR under Sections 195-A, 506, 34 IPC was registered in the year 2018 and after almost 4 years nothing has come on the record to show as to what was found during the course of investigation and as to whether respondent Nos. 2 to 4 have actually threatened and intimidated the witnesses or not. Apart from the same, as per the learned counsel for the parties the aforesaid witness Azad Singh has already been examined during the course of trial apart from the fact that the complainant has also been examined.

It is a settled law that for the purpose of considering the prayer for

cancellation of anticipatory bail, the Court needs to have strong and cogent reasons for such cancellation, otherwise it affects the liberty of an individual which is guaranteed to him under Article 21 of the Constitution of India. In the present case, there is nothing on the record and nothing available on the basis of the arguments raised by the learned counsel for the parties to make out any ground on the basis of which the anticipatory bail can be cancelled. Mere lodging of an FIR under Sections 195-A, 506, 34 IPC which is also 4 years ago would not ipso facto become a ground for cancellation of anticipatory bail unless it is further supported by any other evidence to corroborate the same.

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

22.08.2022

rakesh

**(JASGURPREET SINGH PURI)
JUDGE**

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No