

202 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Neutral Citation No. 2023:PHHC:063585
CRM-M-10246-2022
Date of Decision: May 03, 2023

Dinesh Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Pulkit Dagar, Advocate for
Mr. Monisha Lamba, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J.

Respondent No.2 Sahil Kohli was allowed anticipatory bail in case FIR No.48, dated 21.02.2021, registered at Police Station NIT, District Faridabad, under Sections 120-B, 406, 420, 467, 468, 471 and 506 of IPC, vide order dated 24.01.2022 by learned Addl. Sessions Judge, Faridabad (Annexure P-3).

Petitioner is the complainant of the case, who has now prayed for cancellation of the anticipatory bail by submitting that learned Addl. Sessions Judge, did not appreciate the facts that though as per the agreement to sell dated 16.04.2018, second floor was agreed to be sold, but neither there was first floor nor the second floor and thus, it was a clear case of fraud as respondent No.2 had received the entire sale consideration. It is contended further that learned Court erroneously relied upon para No.3 of the agreement to the effect that possession of the property agreed to be sold, had been delivered. It is contended that once, it was found that there is no second floor of the property, for which the agreement to sell was entered, so there could be no question of delivery of possession.

Respondent No.2 did not put in appearance, despite service, whereas it was stated by learned State counsel on behalf of respondent No.1 that he did not want to file any reply.

Having heard learned counsel for the petitioner, I find no merit in this petition.

The principles for cancellation of bail have been explained by Hon'ble Supreme Court in case of ***"Vipan Kumar Dhir v. State of Punjab and another"*** (Criminal Appeal Nos.1161-1162 of 2021 arising out of SLP (Crl.) No.5404-5405 of 2021, decided on 04.10.2021). In that case anticipatory bail had been allowed by this High Court to mother-in-law of the deceased in a case, in which she was charged under Sections 304B, 302 read with Section 120-B IPC. Father of the deceased challenged the order before Hon'ble Supreme Court. It was held by the Apex Court as under:-

9. At the outset, it would be fruitful to recapitulate the wellsettled legal principle that the cancellation of bail is to be dealt on a different footing in comparison to a proceeding for grant of bail. It is necessary that 'cogent and overwhelming reasons' are present for the cancellation of bail. Conventionally, there can be supervening circumstances which may develop post the grant of bail and are non conducive to fair trial, making it necessary to cancel the bail. This Court in [Daulat Ram and others vs. State of Haryana](#), (1995) 1 SCC 349 observed that:

"Rejection of bail in a nonbailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation

of bail, broadly (illustrative and not exhaustive) 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 concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, 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.”

These principles have been reiterated time and again, more recently by a 3-judge Bench of this Court in [X vs. State of Telegana and Another](#). (2018) 16 SCC 511

10. In addition to the caveat illustrated in the cited decision(s), bail can also be revoked where the court has considered irrelevant factors or has ignored relevant material available on record which renders the order granting bail legally untenable. The gravity of the offence, conduct of the accused and societal impact of an undue indulgence by Court when the investigation is at the threshold, are also amongst a few situations, where a Superior Court can interfere in an order of bail to prevent the miscarriage of justice and to bolster the administration of criminal justice system. This Court has repeatedly viewed that while granting bail, especially anticipatory bail which is per se extraordinary in nature, the possibility of the accused to influence prosecution witnesses, threatening the family members of the deceased, fleeing from justice or creating other impediments in the fair investigation, ought not to be overlooked.”

The aforesaid principles to be kept in mind while considering the petition for cancellation of bail have been reiterated by Hon’ble Supreme Court in case of **“Imran v. Mr. Mohammed Bhava**

Anr”, { Criminal appeal No.658 of 2022, arising out of SLP (Crl.) No.27 of 2022}.

In the present case, there is no denial on the part of respondent-State that respondent had already joined the investigation. There is no allegation by the petitioner that respondent No.2 attempted to interfere with the due course of administration of justice or abused the concession of bail granted to him or that he had absconded. No other factors relevant for cancellation of bail is pointed out by learned counsel for the petitioner.

In the present case, there is no such allegation that petitioner did not co-operate in the investigation or that he had concealed any material fact granting the bail. Learned Court of Addl. Sessions Judge after perusing the record, granted the bail. Having regard to the principles laid down by Hon’ble Supreme court for cancellation of bail, I find no reason to cancel the bail.

Dismissed.

May 03, 2023

sarita

(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No