

CRM-M-22447-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22447-2022
Reserved on: 31.01.2023
Pronounced on: 09.02.2023

Amninder Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Digvijay Dalal, Advocate for the petitioner.

Mr. Rajat Gautam, DAG, Haryana.

Ms. Bhavi Kapur, legal aid counsel
for respondent No.2.

ANOOP CHITKARA, J.

1. Seeking cancellation of bail granted to respondent No.2, the victim had come up before this Court. Vide order dated 04.05.2022 passed in CRM-M-17598-2022, this Court had granted anticipatory bail to the petitioner (respondent No.2 herein), which is continuing till date.

2. Although this Court had granted bail to all the accused but the victim seeks cancellation of bail of respondent No.2/accused Pankaj and is not aggrieved by the grant of bail to the other accused.

3. In the present case, notice was duly served upon the accused-respondent No.2 and his counsel appeared once before this Court and after that he did not appear. As, none has put in appearance on behalf of respondent No.2, this Court had appointed a legal aid counsel on his behalf.

4. I have heard learned counsel for the complainant (petitioner herein), for the State as well as counsel for the accused.

5. Counsel for the complainant submitted that although this Court had granted bail to three accused but the complainant is extremely scared and he is feeling grave prejudice because of the grant of bail to respondent No.2-Pankaj. He further argued that they did not file any application for cancellation of bail granted to other accused and for this very reason they have filed the present petition for cancellation of bail to

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Pankaj for the reasons that he is apprehending danger to his life, the complainant had to shift his city and moved to different city. Furthermore complainant's counsel further argued that the complainant was a budding singer and because of the injuries on neck inflicted by Pankaj by a broken bottle, his vocal cord have been damaged and his career has been ruined. He also drew attention of this Court to medical record to corroborate the same.

6. Legal aid counsel does not dispute the attribution of the injury by the accused-Pankaj but submits that bail once cancelled granted can only be cancelled in a very rare circumstances and not in routine. In this regard, she further refers to the judgments passed by the Hon'ble Supreme Court of India in ***Criminal Appeal No.64-2004 titled as Mehboob Dawood Shaikh vs. State of Maharashtra decided on 16.01.2004***; ***Criminal Appeal No.188 of 1978 titled as The State through Delhi Administration vs. Sanjay Gandhi decided on 05.05.1978***; ***Criminal Appeal No.839 of 19947 titled as Doalt Ram vs. State of Haryana decided on 24.11.1994*** and the judgment passed by this Court in ***CRM-7448-M-2005 titled as Rajesh Kumar vs. Nihal Chand another*** and ***CRM-24616-M-2005 titled as Rajesh Kumar vs. Jeevni Devi and another, both decided on 15.12.2006***.

7. State counsel seeks cancellation of bail on the grounds that due to threat looming large over the complainant because of Pankaj, he had to shift his residence far of place.

8. It remains undisputed that the complainant-Amninder Singh moved his place of residence to distant place (name of the city withheld) for protection and safety purposes. Once this Court had granted bail to Pankaj then it was specifically mentioned in para 17 that he shall not influence, browbeat, pressurize, make inducement, threat, whereas, to the contrary, Pankaj not only threaten the witness/victim but the threat was to such a grave extent that the complainant has to shift his residence. Thus, grant of bail has resulted in miscarriage of justice to complainant-Amninder Singh.

9. Given the fact that respondent No.2 did not comply with the conditions of the bail order and further his acts of threatening the complainant and further the complainant apprehending grave threat at the hands of accused-Pankaj, which resulted in his shifting to far of place, would not justify continuation of bail to Pankaj.

10. Consequently, the present petition is **allowed**. Bail granted to the accused, vide order dated 04.05.2022 passed in CRM-M-17598-2022, is cancelled. Petitioner be taken into custody forthwith. Considering the seriousness of the allegations and the

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period of custody, the trial be expedited, and endeavor be made to pronounce the judgment by March 31, 2023, and not later than April 30, 2023. State is directed not to seek any adjournment and ensure presence of the witnesses. Registry to communicate copy of this order to the concerned Court and to the Superintendent of Police of the district concerned.

All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

09.02.2023
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.