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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33002-2021 (O&M)

Date of Decision:11.10.2023

Krishan

...Petitioner

Vs.

State of Haryana and Others

...Respondents

Coram : Hon'ble Mr. Justice N.S.ShekhawatPresent: Mr.V.P Sangwan, Advocate
for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

Mr. Sumit Sangwan, Advocate for
respondents No.2 to 4.

N.S.Shekhawat J.

1. The petitioner has filed the present petition under Section 439(2) read with Section 482 Cr.P.C with a prayer for cancellation of order dated 20.05.2021 passed by the Court of Additional Sessions Judge, Charkhi Dadri, whereby the concession of anticipatory bail was granted to respondents No.2 to 4 in a case arising out of FIR No.45 dated 26.10.2019 under Sections 147,148,149,323,506 of IPC (307 IPC also added) Police Station Jhojhu Kalan, District Charkhi Dadri.

2. The FIR in the present case was got registered on the basis of the complaint made by Charan Dass son of Mahavir Dass. As per the complainant, he was residing at Shyam Mandir, Makrana and few days ago, he had gone to Hanuman Johri Mandir, Bhiwani. At about 11:00 AM on 26.10.2019, he along with Yudhvir son of Mahabir Singh, Krishan son of Bhim Singh and karan Singh son of Sardar were taking tea after prayer in the temple and in the meantime, Netram, Rakesh, Pawan, Naveen, Vijay, Krishan, Raj, Sittu, Parveen, Jagdish, Attar, Raj, Sonu and Harpal, all residents of Village Makrana

also came there and were having sticks in their hands and started beating them. When they shouted for help they were saved by Ashok son of Sarup Singh, Baljeet son of Dalbir Singh and they had threatened him that he should not come again to the temple. The reasons for enmity was that a civil suit was pending between the parties.

3. Learned counsel for the petitioner contended that on the basis of the statement made by Charan Dass, the case was registered against respondents No.2 to 4 as well as their co-accused. In fact, the villagers of Village Makrana had entrusted the responsibility of looking after the temple to Charan Dass, complainant. However, the accused had secretly formed a trust in the year 2017 and started grabbing the money of temple. When Charan Dass came to know about the trust, he got it dissolved. He further contends that Charan Dass had also filed a civil suit "titled as Maharaj Charan Dass Vs. Jagdish and Others No.335 of 2019 against respondent No.2 and others and an interim injunction has been granted in favour of the complainant. Learned counsel further contends that earlier also Charan Dass had got registered one FIR No.45 dated 26.10.2019 under Sections 147,148,149,323,506 of IPC against respondents No.2 to 4 as they had caused injuries to the complainant. In the present case also, the case was not investigated properly and no opinion was sought with regard to the nature of injuries suffered by the petitioner. Ultimately, on the directions by Judicial Magistrate First Class, Charkhi Dadri, the police obtained the opinion with regard to the nature of injuries and the injuries No.2 and 5 were declared to be dangerous to life as per the opinion from the Medical Board dated 12.03.2021. Learned counsel further submitted that the Additional Sessions Judge, Charkhi Dadri had completely overlooked the medical record in

this regard and now respondents No.2 to 4 were openly threatening to the petitioner and were openly saying that the petitioner could not cause any harm to them and certainly they would be acquitted.

4. On the other hand, learned counsel appearing on behalf of respondents No.2 to 4 submitted that the occurrence had taken place at about 11:00 AM on 26.10.2019. Initially, the respondents No.2 to 4 were arrested in the present case on 16.01.2020 for commission of the offences under Sections 147,148,323,506,149 and were ordered to be released by the Court on 17.01.2020. During the course of investigation, the opinion was sought with regard to the nature of injuries and some injuries were opined as grievous in nature. However, the Medical Board was later on constituted, after a long delay on 12.03.2021 and injuries No.2 and 5 mentioned in the MLR were declared dangerous to life. Consequently, the petitioners again applied for anticipatory bail in view of the conflicting opinions of two medical Boards and were rightly granted the concession of anticipatory bail by the Court of Additional Sessions Judge, Charkhi Dadri. Learned counsel further submitted that the petitioners were on bail for the last more than two years and four months and there is no allegation that the petitioners had ever tried to influence the witnesses of the prosecution. Only, general and vague allegations have been levelled in the present petition that the respondents No.2 to 4 were threatening the petitioner. Thus, he prayed for dismissal of the present petition.

5. I have heard learned counsel for the parties and perused the record.

6. The Hon'ble Supreme Court has held in the matter of **M. Dharmarajam and others Vs.State of Telangana and Anr.,** 2020(1) RCR Criminal, 540 as follows:-

6. The factors to be considered while granting bail have been held by this Court to be the gravity of the crime, the character of the evidence, position and status of the accused with reference to the victim and witnesses, the likelihood of the accused fleeing from justice and repeating the offence, the possibility of his tampering with the evidence and witnesses, and obstructing the course of justice etc. Each criminal case presents its own peculiar factual scenario, and therefore, certain grounds peculiar to a particular case may have to be taken into account by the Court. The Court has to only opine as to whether there is prima facie case against the accused. For the purpose of bail, the Court must not undertake meticulous examination of the evidence collected by the police and comment on the same.

7. In Raghubir Singh Vs. State of Bihar, (1986) 4 SCC 481 this Court held 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. It must also be remembered that rejection of bail stands on one footing but 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.

8. It is trite law that cancellation of bail can be done in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the Court granting bail ignores relevant material indicating prima facie involvement of the accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in cancelling the bail.

7. From the record, it is evident that the petitioners were initially arrested on 16.01.2020 and were granted the concession of bail on 17.01.2020. During the course of investigation, the opinion was sought with regard to the nature of injuries and the injuries were declared to be grievous. However, during the course of investigation, an opinion was sought from the Medical Board on 12.03.2021 and injuries No. 2 and 4 were declared to be dangerous to life. Thus, it is evident that there are two conflicting medical opinions on record and the said fact also weighed with the Additional Sessions Judge, Charkhi Dadri, while granting the concession of anticipatory bail to respondents No.2 to 4. Apart from that, the respondents No.2 to 4 were granted the concession of anticipatory bail on 20.05.2021 and even after a lapse of period of more than 02 years and 04 months, there is no evidence on record to indicate that the petitioners had ever misused the concession of bail or there was a reasonable apprehension of fleeing from the process of justice. Apart from that, the order of cancellation of bail is a harsh order as it interferes with the liberty of an individual and should not be passed in routine by a Court. Thus, keeping in view the law laid down by the Hon'ble Supreme Court and the totality of the circumstances, explained above this Court does not find grounds to interfere with the order passed by the Additional Sessions Judge, Charkhi Dadri and the petition is accordingly ordered to be dismissed.

8. All pending applications, if any, are also disposed off, accordingly.

(N.S.SHEKHAWAT)
JUDGE

11.10.2023
hitesh

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