

2023:PHHC:161585
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SR. No.325

CRM-M-35090-2021 (O&M)
Date of decision:13.12.2023

Sitara Singh

...Petitioner

Versus

Mandeep Kaur and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. Malkiat Singh, Advocate for the petitioner.

Mr. Lovish Rattan, Advocate for respondent No.1.

Mr. Mohit Chaudhary, AAG, Punjab.

N.S. SHEKHAWAT, J.

1. The petitioner has filed the instant petition under Section 439(2) Cr.P.C. with a prayer to cancel the regular bail by setting aside the order dated 15.12.2020 passed by this Court, vide which regular bail has been granted to the present respondent no.1 in case FIR No231 dated 18.11.2018 registered under Sections 302/201/120-B/34 IPC at Police Station Lopoke, District Amritsar Rural.

2. Learned counsel for the petitioner submits that the above-said FIR was ordered to be registered on the basis of the statement made by the petitioner against respondent No.1-accused and others. Vide order dated 15.12.2020 passed by this Court in CRM-M-38028-2020 (Annexure P-1), respondent No.1 was granted the concession of regular bail. After getting

the bail from this Court, respondent No.1 had furnished surety/bail bonds before the Court at Judicial Magistrate 1st Class, Ajnala, on 16.01.2021. During the said process, the surety, namely, Darshan Singh had furnished the bail bonds and submitted the Fard Hakikat of his land and respondent No.1 was ordered to be released from the jail. On 27.01.2021, the petitioner came to know that respondent No.1 had submitted false and fabricated documents while furnishing surety/bail bonds and he moved an application before the Court of Additional Sessions Judge, Amritsar, for taking action against respondent No.1. On this, a report was sought from the Tehsildar, Kapurthala and during verification, it was found that Fard Hakikat submitted by surety was fake. On 12.08.2021, the application filed by the petitioner was heard by the court and the Additional Sessions Judge, Amritsar directed respondent No.1 to furnish the fresh bail bonds. Learned counsel further submitted that respondent No.1 had been threatening the petitioner to withdraw his case and to make settlement with him as they are the residents of the same village. Even the witnesses in the present case are the neighbours and respondent No.1 was threatening the witnesses. Still further, respondent No.1 had committed a fraud with the Court and had enjoyed the undue benefit of bail by presenting the forged and fabricated documents. Thus, the bail of respondent No.1 is liable to be cancelled by this Court.

3. A short reply by way of an affidavit dated 28.11.2023 of Deputy Superintendent of Police, Sub-Division Attari, Amritsar has been filed on behalf of respondent-State and the same is taken on record.

4. Learned counsel for the State submitted that vide order dated 15.12.2020, this Court granted the concession of regular bail to respondent

satisfaction of the trial Court/Duty Magistrate. Respondent No.1 had furnished the bail bonds and surety bonds to the satisfaction of trial Court. However, on verification of the documents submitted on behalf of respondent No.1, the documents related to the property submitted by the surety along with his surety bonds were found to be fake on verification. Accordingly, on 12.08.2021, the petitioner filed an application for cancellation of bail and the surety bonds of respondent No.1 on the basis of their verification report submitted by Tehsildar, Kapurthala. The order dated 12.08.2021 is reproduced below:-

“Learned counsel for the complainant filed an application regarding cancellation of bail bonds of accused Mandeep Kaur on the basis of report received from Tehsildar Kapurthala. Application placed on record. Accused Mandeep Kaur present in the court is directed to furnish fresh bail bonds on 17.08.2021 and consideration on application be also heard on date fixed.”

5. The trial Court disposed of the application on 12.08.2021 by directing the concerned SHO of Police Station, Lopoke, District Amritsar Rural to register the FIR against surety and his identifier, i.e. Darshan Singh and Jatinder Singh, Lambardar, respectively, for submitting surety bonds for two accused persons in different cases on the basis of forged documents. An order dated 26.08.2021 was passed by the trial Court and the same is reproduced as under:-

“Vide this common order, I shall dispose of two applications i.e. one application filed by Sh. Damanpreet Singh, Advocate regarding verification of surety bonds furnished on behalf of accused on 23.06.2021 in bail application No. 3019 of 2021 and another application filed by applicant Sitara Singh for cancelling the bail order of accused Mandeep Kaur and lodging FIR against surety and his verifier for filing forged

documents in the court of JMIC, Ajnala on dated 16.01.2021 in compliance of order passed by the Hon'ble High Court in CRM-M-38028-2020, because in both cases bail bonds/surety bonds furnished by the same person with two different names.

As per record, in case titled as "State Vs. Hardilbir Singh", FIR No.125 dated 23.05.2021, under Section 21 of NDPS Act, PS Cantonment, Amritsar, on 23.06.2021 surety Gurpartap Singh s/o Sarwan Singh, r/o village Jandiala, Ward No. 13, Tehsil and District Amritsar, identified by Numberdar Kuldeep Singh s/o Surjit Singh, r/o village Jandiala, Tehsil and District Amritsar, filed bail/surety bonds for accused Hardilbir Singh with forged 2 documents i.e. Aadhaar Card, Identity Card of Numberdar and Fard Haqiat.

The same person, who furnished the surety in above-mentioned case for accused Hardilbir Singh again furnished the surety in case titled as "State Vs. Iqbal Singh", FIR No. 231 dated 18.11.2018, under Sections 302, 201, 120-B of IPC, PS Lopoke for accused Mandeep Kaur with the name of Darshan Singh S/o Danna Singh, R/o village Khojawali, H.N.24, Ward No.3, Tehsil Kapurthala, District Kapurthala, Punjab and identified by Numberdar Jatinder Singh s/o S.Pyarra Singh, r/o village Khojawali, H.No.27/123, Ward No.3, Tehsil Kapurthala, District Kapurthala, Punjab, on 16.01.2021 in the court of JMIC, Ajnala, Sh. Sandeep Singh Bajwa, the then learned ASJ, Amritsar, sent these documents for verification of property of surety Darshan Singh to the Tehsildar Kapurthala and report was received from the Tehsildar Kapurthala as per which Fard Haqiat was found forged and fabricated document produced by surety Darshan Singh.

Above-mentioned facts show that surety along with identifier prepared the forged documents i.e. Aadhaar cards, Identity card and Fard Haqiat etc. and furnished the bail bonds/surety bonds in the above-mentioned two cases so that it can be

used as genuine for obtaining the relief from the court and also filed wrong affidavits in the court in both cases. The above facts require thorough investigation. Since, prima facie the documents appears to be forged, as such intimation be sent to the concerned SHO for registration of case against surety and identifier under the relevant provisions of law and further investigation as per law. Attested copies of documents furnished by the surety and identifier in both cases be also sent to the concerned SHO. In view of the above-mentioned discussion, both applications are disposed of.”

6. Later on, on the basis of the aforesaid order dated 26.08.2021 passed by the trial Court, one FIR No.190 dated 27.08.2021 under Sections 419/420/467/468/471/120-B IPC was registered against respondent No.1 and his co-accused for furnishing fake surety bonds for the bail of respondent No.1. Thereafter, respondent No.1 had furnished fresh bail and surety bonds on 26.08.2021 before the trial Court, which were accepted and attested by the trial Court on the same day. Learned counsel further submitted that respondent No.1 was arrested in the above-said FIR No.190 dated 27.08.2021 and has been ordered to be released on bail by the competent court. Apart from that, vide order dated 19.09.2019, charge under Sections 302/120-B IPC has already been framed against respondent No.1 and several prosecution witnesses have been examined by the trial Court.

7. Learned counsel appearing on behalf of respondent No.1 also submitted that the petitioner was arrested in said FIR No.190 dated 27.08.2021 and has been ordered to be released on bail. Moreover, he had also submitted fresh bail bonds/surety bonds to the satisfaction of the trial Court and appropriate action has already been taken against the surety of respondent No.1 for furnishing fake and fabricated documents. He further

contended that respondent No.1 had no knowledge with regard to the revenue documents produced by the surety as respondent No.1 was confined in jail at that time. Thus, it cannot be submitted that respondent No.1 had actively connived with his surety Darshan Singh and there is no ground to cancel the bail granted to respondent No.1 by this Court.

8. I have heard the learned counsel for the parties and perused the case file minutely.

9. Apparently, the papers annexed by the surety, namely, Darshan Singh, with his surety bonds were found to be false and vide order dated 12.08.2021, the trial Court had directed respondent No.1 to furnish fresh bail bonds/surety bonds and respondent No.1 complied with the said order on 26.08.2021. However, the fresh papers submitted by surety/respondent No.1 were found to be in order. Further, one FIR No.190 dated 27.08.2021 registered under Sections 419/420/467/468/471/120-B IPC at Police Station Civil Lines, Amritsar has already been registered against respondent No.1, his surety Darshan Singh and other co-accused for submitting forged and fabricated documents before the trial Court and even they have been granted the concession of bail by the concerned court. Thus, there would be no justification in sending respondent No.1 behind the bars at this stage as he has been adequately punished by the concerned court and fresh surety bonds/bail bonds have been furnished by respondent No.1, which have been duly accepted by the said court.

10. The Hon'ble Supreme Court in the matter of M.Dharmarajam and others Vs. State of Telangana and another, 2020 (1) RCR CrL 540 has held as under:-

“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 Raghbir Singh v. State of Bihar 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.”

11. Considering the above-said facts and circumstances of the case as noted above and in view of the law laid by the Hon’ble Supreme Court in **M.Dharmarajam**’ case (supra), the present petition is hereby dismissed, being devoid of any merits.

13.12.2023
mks

(N.S. SHEKHAWAT)
JUDGE

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO