

201
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-35489-2021 (O&M)

Date of Decision: 07.07.2023

Joginder Pal

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. C.L.Verma, Advocate, for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

Mr. Dinesh Nagar, Advocate, for respondent Nos. 2 and 3.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition filed under Section 439 (2) read with Section 482 of the Code of Criminal Procedure for cancellation of pre-arrest bail granted to respondents No.2 and 3 vide order dated 30.06.2021 (Annexure P-5 and P-6).

2. Learned counsel for the petitioner has submitted that vide Annexure P-5 and P-6, the interim anticipatory bail which was granted by this Court to respondents No.2 and 3 was confirmed on the basis of the statement made by learned counsel for respondents No.2 and 3 as well as the State counsel which was misleading and not correct and, therefore, it constitutes a sufficient ground for cancellation of bail granted to respondents No. 2 and 3.

While referring to Annexure P-5 and P-6, he submitted that it was so stated by learned counsel for respondent Nos. 2 and 3 that the challan has already

been presented and adequate bail bonds have already been furnished and the same was also affirmed by the learned State counsel. Therefore, the interim anticipatory bail granted to respondent Nos. 2 and 3 was confirmed by this Court whereas a perusal of Annexure P-7 dated 27.07.2021 would show that bail bonds and surety bonds were furnished after the aforesaid date when it was made absolute by this Court and therefore the bail granted to respondents No.2 and 3 may be cancelled.

3. On the other hand, learned counsel for respondents No.2 and 3 while referring to the reply filed by them submitted that at the time when the interim anticipatory was made absolute by this Court vide Annexure P-5 and P-6, this Court had taken into consideration three factors. Firstly, the fact that the respondents No.2 and 3 have already joined investigation. Secondly, the challan of the case has already been presented and thirdly, the adequate bail bonds have been furnished. He submitted that so far as the first two factors are concerned, the same are correct but so far as the third factor is concerned, it was only on the basis of mis-communication to the counsel since the respondent Nos.2 and 3 were already appearing before the learned trial Court regarding which the orders have been reproduced in the reply filed by respondents No.2 and 3. He also referred to para No. 7 to 9 of the reply in which it has been so specifically stated that the aforesaid conveying to the Court with regard to the furnishing of bail and bonds was not an intentional act and there was no ill will involved since the investigation of the case has already been completed and respondents No.2 and 3 had already joined investigation and therefore, it cannot become a ground for cancellation of bail since it is a settled law that cancellation of bail should be made only when extreme and strong circumstances can be shown by the person who is seeking cancellation of bail since it affects rights and liberty of an individual. He

further submitted that even otherwise also it is a case of Sections 420 and 120-B IPC which involves financial dispute between the parties and the life and liberty of a person should not be curtailed in cases which are purely of commercial nature.

4. Mr. Sarabjit Singh Cheema, DAG, Punjab has stated that so far as the confirmation made by the State counsel vide Annexure P-5 and P-6 is concerned, the same also appears to be by inadvertent mistake but that would not effect on the merits of the case by which the interim anticipatory bail granted to respondents No.2 and 3 was confirmed by this Court since investigation of the case has already been completed and challan was presented. He also submitted that even otherwise as of now out of 19 cited witnesses 13 have already been examined and the trial is at the fag end and it will not be appropriate for cancellation of anticipatory bail granted to respondents No.2 and 3.

5. I have heard the learned counsel for the parties.

6. The only issue involved in the present case is that at the time when the interim anticipatory bail granted to respondents No.2 and 3 was confirmed by this Court vide Annexure P-5 and P-6 on 30.06.2021, it was so conveyed by the learned counsel for the State and respondents No.2 and 3 that adequate bail bonds have already been furnished but a perusal of the aforesaid order would show that at the same time it was also so stated that respondents No.2 and 3 have already joined investigation and investigation of the case has already been completed and challan has been presented. Therefore, the interim anticipatory bail granted to respondents No.2 and 3 was confirmed. Learned counsel for respondents No.2 and 3 has stated that so far as the furnishing of adequate bail and bonds is concerned, it was only

a mis-communication to him and it did not effect on the merits of the order because the order was passed on the basis of joining of the investigation and the investigation having completed and no prejudice would be caused to the petitioner with regard to the aforesaid position. This Court is of the view that this Court had confirmed the interim anticipatory bail to respondents No.2 and 3 basically on the basis of the fact that respondents No.2 and 3 had already joined investigation and investigation was already completed and challan stood presented regarding which there is no dispute by any of the learned counsels for the parties. Therefore, so far as the mis-communication with regard to furnishing of adequate bail and bonds is concerned, as per the learned counsel for respondents No.2 and 3 since respondents No.2 and 3 were already appearing before the learned trial Court, it was not intentional or due to any ill-motive and therefore, this Court is of the view that this ground itself cannot become a ground for cancellation of bail because cancellation of bail can be done only when there are very extreme and strong circumstances to show that life and liberty of an individual is to be curtailed especially at this point of time when 13 out of 19 witnesses have already been examined and more particularly when the subject matter of the case is pertaining to Sections 420 and 120-B IPC which relates to a financial dispute or a commercial dispute between the parties.

6. Consequently, the present petition is dismissed.

07.07.2023

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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