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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-31022-2023

Date of Decision: 20.07.2023

Veerpal Kaur

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sanyam Bhardwaj, Advocate,
for the petitioner.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 439(2) read with Section 482 of the Code of Criminal Procedure for setting aside/cancellation of bail orders dated 12.06.2023 (Annexure P-1) and order dated 13.06.2023 (Annexure P-2) passed by learned Additional Sessions Judge, Barnala where by the accused i.e. respondent Nos.2 to 5 have been granted anticipatory bail in FIR No.71 dated 07.06.2023, under Section 380 IPC, registered at Police Station Tapa, District Barnala.

2. Learned counsel for the petitioner has submitted that the learned Additional Sessions Judge, Barnala had granted the bail to respondent Nos.2 to 5 by passing different orders erroneously, which has been attached along with the present petition as Annexures P-1 & P-2, and it was a fit case where custodial investigation of the private respondents was required since the allegations of theft have been levelled against them. He further submitted that the aforesaid orders have been passed on 12.06.2023 & 13.06.2023,

respectively, and also referred to Annexure P-4 in this regard whereby on the same date i.e. 12.06.2023 by way of a short order, it was shown that the bail application was dismissed and in view of these circumstances, the bail granted to the private respondents may be cancelled.

3. I have heard the learned counsel for the petitioner.

4. In view of the reference made to Annexure P-4, this Court sought a report from the learned Sessions Judge, Barnala twice since earlier the petitioner had brought to the notice of this Court with regard to Annexure P-4 which was a short order and a report was sought from the District & Sessions Judge, Barnala and thereafter, he had apprised this Court that even there was a detailed order also of the same date by which the bail application was dismissed which was marked by this Court as 'X' and therefore, another report was called from the learned District & Sessions Judge, Barnala to clarify the position. Now a second report has also been received from the District & Sessions Judge, Barnala. As per the learned counsel for the petitioner, the date on which the bail was granted to the private respondents, on the same date a short order and a detailed order granting the bail to the private respondents was also uploaded on the website. The learned District & Sessions Judge, Barnala has sent a detailed report in this regard and has stated that the Judgment Writer of the concerned Court prepared a rough draft of the orders as he was under impression that the bail application has been dismissed by this Court and he uploaded the same but thereafter, immediately the same was deleted and thereafter the correct order was uploaded. After making a detailed inquiry, the learned District & Sessions Judge stated in the report after obtaining

comments from all the concerned quarters i.e. learned Presiding Officer, Court staff, Public Prosecutor and the Lawyers concerned with the case and submitted that the concerned Court i.e. learned Additional Sessions Judge, who was the Presiding Officer had stated that no short order or detailed order of dismissal i.e. Annexure P-4 and marked 'X' were passed by him but the same was uploaded by Judgment Writer inadvertently and the Judgment Writer submitted that he had inadvertently uploaded the rough wrong order. Both the orders (Annexure P-4 and marked 'X') which have been relied by the learned counsel for the petitioners are unsigned orders and they are not signed by any Judicial Officer. In the report, the learned Sessions Judge has also stated that a report was received from the Office of District Attorney, Barnala, Additional Public Prosecutor and the Investigating Officer of the case, who submitted that the interim bail was granted to the applicants which was pronounced in their presence as well as in the presence of learned counsels for applicants and complainant. The statement of Sh. D.R. Jindal, Advocate was also recorded who was representing the complainant in the said bail application and his statement was also recorded to the effect that the learned Presiding Officer had granted the interim bail to the applicants which was pronounced in his presence as well as in the presence of learned Additional Public Prosecutor and learned counsel appearing on behalf of the applicants. The learned Additional Sessions Judge has also submitted that he sincerely apologize and deeply regret to the inconvenience caused to the High Court for the lapse committed by the official/Judgment Writer of this Court.

5. In view of the aforesaid facts and circumstances, the plea of the

learned counsel for the petitioner with regard to some *mala fide* pertaining to two different orders is unfounded. Any observation made by this Court in the present case pertaining to the aforesaid orders which were uploaded would not be deemed to be any expression of any opinion since the same issue can be dealt on the administrative side if so required. This Court would, therefore, only consider the submissions made by the learned counsel for the petitioner by which the challenge has been made to the orders (Annexure P-1 & P-2) on its own merits.

6. The aforesaid Annexures P-1 & P-2 which are impugned in the present petition seeking cancellation of bail are only orders by which the interim bail was granted and it is not a final order. This Court is of the view that such a challenge cannot be laid against interim order once the bail application is pending before the learned Additional Sessions Court. Apart from the above, as per the allegations contained in the FIR, which were made by the present petitioner, namely, Veerpal Kaur that there had been a theft of one Swaraj Tractor, Rehda, wheat sowing machine, toka machine and engine from her house. The learned Additional Sessions Judge while granting interim bail considered the aforesaid allegations and granted interim bail on the ground that there were no specific allegations levelled against the accused persons and even otherwise also it was a family dispute between close relatives and even a civil litigation is also pending and therefore, interim bail was granted to the private respondents.

7. After hearing the learned counsel for the petitioner, this Court is of the view that there is neither any perversity nor any illegality in the impugned orders (Annexure P-1 & P-2) passed by the learned Additional

Sessions Judge, Barnala. Consequently, finding no merit in the present petition, the same is hereby dismissed.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

20.07.2023
Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |