

204-1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 06.09.2023
(1) CRM-M-29053-2019(O&M)

Surinder Kumar Vashisth ...Petitioner

VS

State of Haryana and another ...Respondents

(2) CRM-M-29067-2019(O&M)

Surinder Kumar Vashisth ...Petitioner

VS

State of Haryana and another ...Respondents

CORAM: HON’BLE MR.JUSTICE ARUN MONGA

Present: Mr. Abhinav Sood, Advocate,
Mr. Nitesh, Advocate for the petitioner in both the petitions.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Shivansh Malik, Advocate,
for respondent No.2 in both the petitions.

ARUN MONGA, J. (ORAL)

Vide this common order, above mentioned two petitions, arising out of the same FIR, are being disposed of. For brevity, recitals/facts are from CRM-M-29053-2019.

2. Petition herein has been filed under Section 439(2) of the Code of Criminal Procedure, 1973 (for short ‘Cr.P.C.’) seeking cancellation of anticipatory bail granted to respondent No.2, namely, Chanchal Singhal vide order dated 13.05.2019 passed by learned Additional Sessions Judge, Faridabad, in case FIR No.177 dated 03.05.2019, registered under Sections 406, 420, 506 and 120-B of IPC, 1860 at Police Station, Sector-31, Faridabad. While second petition i.e., CRM-M-29067-2019 seeks cancellation of anticipatory bail granted to respondent

No.2 therein, namely, Pawan Singhal vide order dated 01.06.2019 by learned Additional Sessions Judge, Faridabad in the same FIR.

2. Learned counsel for the petitioner submits that petitioner is in construction business under the name and style of 'Vashisth Builder and Engineer Pvt. Ltd.'. In the course of business, in the year 2013, petitioner came in contact with J.K. Garg, the Managing Director of SRS Real Estate Limited and Pawan Singhal and his wife, Chanchal Singhal. Further contends that FIR was lodged by petitioner against accused persons i.e., Pawan Singhal and his wife Chanchal Singhal-respondent No.2, who came to petitioner's house in the month of September, 2015 and told him that they will give their 10% share in SRS Real Estate project situated in Sector-7, Palwal to him, if he gives them a sum of Rs.1.25 crores in lieu thereof. He after getting an assurance by the accused gave Rs.79 lakh vide cheque No.163034 dated 09.09.2015 to Pawan Singhal (respondent No.2 in CRM-M-29067-2019) and Rs.46 lakh vide cheque No.162954 dated 09.09.2015 to Chanchal Singhal (respondent No.2 in CRM-M-29053-2019) and the cheques were encashed by them. When he requested them to transfer their share in his name, they started delaying the matter on one or the other pretext. On repeated requests of petitioner to transfer the share, as promised by them, Pawan Singhal issued two cheques; one for Rs.21 lakh and second for Rs.79 lakh which upon presentation got dishonored.

3. Learned counsel for the petitioner further submits that thereafter, respondent(s) Chanchal Singhal and Pawan Singhal filed separate anticipatory bail applications and the same were allowed vide impugned orders dated 13.05.2019 and 01.06.2019 respectively. However, the said orders are erroneous and the anticipatory bail granted to them is illegal, wrong and liable to be cancelled, particularly when respondents Chanchal Singhal and Pawan Singhal have cheated the petitioner and thereby dishonestly induced him to deliver amount of more than Rs.1 Crore, therefore, offence under Section 420 IPC is made out. The

observation of learned Additional Sessions Judge that it is a civil dispute which has been given a criminal colour is erroneous, contends the learned counsel.

3.1 Learned counsel further contends that investigating agency categorically requested learned Additional Sessions Judge, Faridabad for granting more time by stating that the case file was received by Economic Offence Wing, Central Zone, Faridabad for investigation recently and due to election duty the matter could not be investigated. Further the documentary record is yet to be recovered and statements of witnesses are to be recorded. But this plea of investigating agency of outrightly ignored, thus causing prejudice in the investigation.

4. Per contra, learned counsel for respondent No.2 opposes the prayer made and submits that anticipatory bail was rightly granted by learned Additional Sessions Judge, Faridabad after examining the material on record. Rather, petitioner firm became partner/shareholder of 40% share in the said project of Sector 7, Palwal after collaboration agreement which was executed/signed on 01.11.2013 between petitioner's firm and M/s. SRS Estate Ltd., Mansha Realtech Pvt. Ltd. and M/s. Premier Realbuild Pvt. Ltd., who were the initial shareholders in the said project. Learned counsel further urges that petitioner sold the entire project to M/s. SRS Real Estate Ltd. on 11.10.2016 and received crores of rupees in lieu of selling the entire project. This fact goes to show that petitioner, in order to cause harassment to respondents, had got registered the present FIR with a concocted version. Learned counsel for respondent No.2 further canvasses that the alleged fraud, if any, has been committed by other share holders and not the answering respondents but still petitioner got the FIR registered against them (the answering respondents) deliberately with *mala fide* intention. Learned counsel further argues that learned Court below while granting anticipatory bail unambiguously observed that the dispute between the parties, if any, is of civil nature and petitioner has tried to give it is a colour of criminal wrong.

4.1. Learned counsel for respondent No.2 further submits that all the documents related to the case have already been shown by them to the investigating agency and no other document is pending which is required for just and proper adjudication of the case in hand. No valid grounds are made out to cancel the bail granted to answering respondent(s).

5. Learned State counsel would argue that respondent(s) were granted anticipatory bail by learned Additional Sessions Judge, Faridabad and they had joined the investigation. Though, he submits that State has no objection if the petitions are accepted and anticipatory bail granted to respondents Chanchal Singhal and Pawan Singhal are ordered to be cancelled.

6. File perused. Heard learned counsel for the parties.

7. Cancellation of bail is a serious matter and can have significant impact on the life of a person. Matters of personal liberty ought not to be taken casually and the Courts have to be circumspect in accepting such requests in a mechanical manner.

8. Needless to say that parameters governing the cancellation of bail are in very narrow compass. It is only in those cases where the concession of bail is misused or there is likelihood of the accused fleeing the Court proceedings and/or otherwise being a social threat to the society that this Court would intervene and cancel bail already granted. Matters of liberty are not to be taken as lightly, as has been canvassed by learned counsel for petitioner/complainant.

9. No doubt, if new criminal offences are committed by accused while on bail, it may be a ground to cancel the bail already granted. However, in the instant case, no offence has been committed by accused after the grant of concession of bail.

10. Given that there is a chequered history of hostilities between the parties, the bald assertion of petitioner/complainant that some documentary record is yet to be recovered from respondent(s), without any corroborating material on

record, cannot be made a ground to reconsider the original bail decision taken by the learned Sessions Court.

11. Being so, I am of the opinion that it would be rather harsh, at this stage, to incarcerate respondents again by cancelling their bail on the basis of bald assertion that the accused may commit a new offence.
12. In the totality of circumstances, no case for cancellation of bail is made out.
13. As an upshot, no grounds for interference are made out.
14. Both the petitions are hereby dismissed.
15. Pending application(s), if any, shall also stand disposed of.
16. A photocopy of the order be placed on the connected case file.

(ARUN MONGA)
JUDGE

06.09.2023
Jyoti Thakur

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No