

2023:PHHC:089919

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

215

CRM-M-46851-2021 (O&M)

Date of Decision: 18.07.2023

RAMESH

... Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. SS Verma, Advocate
for the petitioner.

Mr. Rupinder Singh Jhand, Addl. A. G. Haryana.

HARNARESH SINGH GILL, J.(Oral)

As per the Office report, service is complete.

Prayer in this petition is for cancellation of regular bail granted to respondents No.2 and 3 vide order dated 08.10.2021 passed by the learned Additional Sessions Judge, Charkhi Dadri, in FIR No.14 dated 16.01.2021, registered under Sections 148, 149, 323, 341, 325, 201, 379-B, 302, 120-B, 427 and 506 IPC and Section 25 of the Arms Act, at Police Station Badhra.

Learned counsel for the petitioner submits that the petitioner is the brother of deceased, namely, Ranbir @ Munna and that though respondents No.2 and 3, in connivance with the other co-accused, have committed murder of Ranbir @ Munna, yet they have been granted the concession of regular bail by the learned Court below, without considering the gravity of the offence.

Learned counsel for the petitioner further submits that respondents No.2 and 3 are misusing the concession of regular bail granted to them, inasmuch as, they are continuously giving threats to the petitioner, who is one of the eye-witnesses. He further submits that the cause of death was acute exacerbation of pre-existing coronary artery disease because of injuries mentioned in MLR No.CD/05/2021GHD dated 15.01.2021, which is delayed complication of these types of injuries, despite of treatments, implant and operative procedures from PGIMS, Rohtak. Still further, it is submitted that the cause of death, as stated above, would not occur in normal course and that too at the age of 30 years.

Learned State counsel submits that cogent and overwhelming circumstances are necessary for cancellation of bail and there is no justification for cancellation of bail in a mechanical manner.

I have heard the learned counsel for the parties.

For proper adjudication of the controversy in hand, it would be apposite to mention here 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.'*

The occurrence took place on 15.01.2021. Respondents No.2 and 3 had been granted the concession of bail vide order dated 08.10.2021 passed by the learned Additional Sessions Judge, Charkhi Dadri i.e. after about 9 months of the day of occurrence. The complainant/deceased has since expired on 04.02.2021.

Though respondents No.2 and 3, namely, Sunil and Vikas @ Padwa, were named in the FIR, yet only rod/hockey blow and butt blow on the leg of the complainant/deceased has been attributed to them, which is non-vital part. As per the concerned Doctors, the cause of death was acute exacerbation of pre-existing coronary artery disease.

The Hon'ble Supreme Court in the case of Dolat Ram and others vs State of Haryana, 1995 (1) CJL (Criminal) 268, has held that the bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.

In view of the above, no ground is made out to recall the concession of regular bail granted to respondents No.2 and 3.

Dismissed.

18.07.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

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