

CRM-M-52913-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-52913-2021

Date of decision: 13.07.2023

Jasvinder Singh

...Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Rakesh Nehra, Sr. Advocate with
Mr. Sauhard Singh, Advocate,
for the petitioner.

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

Mr. Birinder Singh Khehar, Advocate,
for respondent No.2.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this petition, the petitioner seeks cancellation of regular bail granted to respondent No.2, vide order dated 10.12.2021 passed by this Court in CRM-M-46826-2021, in FIR No.137 dated 01.07.2020, registered at Police Station Chhapar, District Yamuna Nagar, under Sections 302, 201, 120-B and 34 IPC and Sections 25 and 29 Arms Act, 1959.

2. Learned Senior Counsel for the petitioner contends that while granting bail to respondent No.2, the factum of recovery of countrymade pistol from him(respondent No.2) was not brought to the notice of this Court.

3. Learned State counsel also submits that respondent No.2 had actively participated in the commission of offence.

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4. On the other hand, learned counsel for respondent No.2 submits that respondent No.2 was neither named in the FIR, got registered by Jaswinder Singh (brother-in-law of the deceased) nor in two supplementary statements dated 01.07.2020 and 13.07.2020, got recorded by Amarjit Singh (brother of the deceased) and that this Court while granting bail to respondent No.2, considered the fact that statement of the material witness i.e. complainant had been recorded. It is further contended that there is no allegation against respondent No.2 of misusing the privilege of bail or committing any misconduct after being admitted to bail. In such circumstances, the bail granted to respondent No.2 ought not to be cancelled.

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

6. 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.

7. 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 as has been

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held by the Hon'ble Supreme Court in the case of Dolat Ram and others v. State of Haryana, 1995 (1) SCC 349.

8. The paramount consideration while cancelling the bail, is the fairness in administration of criminal justice. There are no fetters to exercise the power if by circumstances of the case, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during trial. However, in order to succeed in the present petition seeking cancellation of bail, the petitioner-complainant has to show by preponderance of probabilities that there is reasonable apprehension that respondent No.2-accused would interfere with the course of justice. But, there is no allegation against respondent No.2 qua any misconduct or tampering with the evidence after having been released on bail. Moreover, the trial is at the fag end as stated by learned counsel for the parties.

9. In view of the above, this Court is of the considered view that this is not a fit case where the bail granted to respondent No.2, vide order dated 10.12.2021 passed by this Court, is to be cancelled.

10. Therefore, finding no merit in the present petition, the same is dismissed.

13.07.2023

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No