

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101

CRM M-47269 of 2023
Date of Decision: 18.10.2023

Harnek Singh

...Petitioners

Vs.

State of Punjab and another

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Atul Kaushik, Advocate, for the petitioners.

Mr. Sanish Girdhar, AAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 439 (2) Cr.P.C. with a prayer to cancel the bail granted to respondent No. 2 vide orders dated 27.07.2023 (Annexure P-2) and dated 09.08.2023 (Annexure P-3) passed by the Special Court Jalandhar in a case arising out of FIR No. 184 dated 14.07.2023 registered under Sections 420, 465, 467, 468, 471 and 120-B IPC at Police Station Phillaur, District Jalandhar.

2. As per the case of the prosecution, the FIR in the present case was registered on the basis of the statement made by Harnek Singh. As per the complainant, Gural Singh @ Pala @ Bhagat Singh, Chetan, Sukhraj Singh Bedi, Deed Writer, Harmesh Lal, Anuj,

Balveer Singh, Harbans Singh, Kewal Singh and Ravinder Singh Chetan had committed the fraud and forgery in the present case. As per him, his Bua (aunt) Gurmej Kaur died issueless on 29.10.2019. All the aforesaid persons had prepared forged and fabricated Wills of Gurmej Kaur, with an intention to usurp the property of Gurmej Kaur. The said Wills were prepared by Sukhraj Singh Bedi, Deed Writer, who was habitual of preparing fake and fabricated documents and several cases of similar nature were registered against him. As per the complainant, a Will dated 18.07.2013 had been prepared in favour of accused Harbans Singh and another Will dated 25.12.2013 had been prepared in favour of Gurpal Singh and Chetan and the remaining accused were the witnesses to the Wills. As per the complainant, both the Wills and signatures of Gurmej Kaur were forged and fabricated and the original signatures of Gurmej Kaur were available in the bank and they could be compared with the same. As per the complainant, the accused wanted to grab the property of Gurmej Kaur and prayed for investigation in the present case.

3. After the registration of the FIR, the respondent No. 2 applied for grant of anticipatory bail and vide order dated 27.07.2023 (Annexure P-2), the Court of Additional Sessions Judge, Jalandhar granted the concession of interim anticipatory bail to him, which was

later on confirmed vide order dated 09.08.2023 (Annexure P-3) passed by the said Court.

3. Learned counsel for the petitioner contends that the Additional Sessions Judge completely failed to appreciate that fake Wills dated 18.07.2013 and 25.12.2013 of Gurmej Kaur were prepared by respondent No. 2 and others. The police registered FIR against both the beneficiaries of the Wills, whereas, the marginal witnesses were not arraigned as accused in the present case. Later on, on the strength of the forged Will dated 18.07.2023, the respondent No. 2 had filed a civil suit which is pending before the Civil Court at Phillaur. Even though, a claim was raised on the basis of the forged Will dated 25.12.2013 also, but in none of the claims, the original Will was ever produced by the accused. Apart from that, even before passing of order, the Additional Sessions judge, had not provided any opportunity of hearing to the learned counsel appearing on behalf of the complainant/petitioner and respondent had mislead the Court. Apart from that, the petitioner apprehends a threat to his live and property at the hands of respondent No. 2 and after grant of bail, the respondent No. 2 has become more and more aggressive. Thus, the respondent No. 2 had misused the concession of bail granted to him and keeping in view the gravity of the offence also, the concession of

bail granted to respondent No. 2 is liable to be withdrawn by this Court.

3. On the basis of the advance notice, Mr. Mr. Sanish Girdhar, AAG, for the State of Punjab had appeared and stated that there was no instance of threatening of witnesses by the respondent No. 2. He further submits that in the present case, no complaint has been filed by the petitioner with regard to the threats extended to him.

4. I have heard learned counsel for the parties and perused the record.

5. The Hon'ble Supreme Court has held in the matter of **M. Dharmarajam and others Vs.State of Telangana and Anr., 2020(1) RCR Criminal, 540** as follows:-

“6.The factors to be considered while granting bail have been held by this Court to be the gravity of the crime, the character of the evidence, position and status of the accused with reference to the victim and witnesses, the likelihood of the accused fleeing from justice and repeating the offence, the possibility of his tampering with the evidence and witnesses, and obstructing the course of justice etc. Each criminal case presents its own peculiar factual scenario, and therefore, certain grounds peculiar to a particular case may have to be taken into

account by the Court. The Court has to only opine as to whether there is prima facie case against the accused. For the purpose of bail, the Court must not undertake meticulous examination of the evidence collected by the police and comment on the same.

7. In *Raghubir Singh Vs. State of Bihar*, (1986) 4 SCC 481 this Court held 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. It must also be remembered that rejection of bail stands on one footing but cancellation of bail is a harsh order because it interferes with the liberty of the individual and hence it must not be lightly resorted to.

8. It is trite law that cancellation of bail can be done in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the Court granting bail ignores relevant material indicating prima facie involvement of the accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in cancelling the bail”.

6. Having heard the counsel for the parties, this Court is of the considered opinion that there is no force in the submissions made by learned counsel for the petitioner. From the impugned orders, it is evident that the present petitioner/complainant was duly represented by a counsel and the presence of counsel for the complainant has been marked by the Additional Sessions Judge in both the impugned orders. Thus, it could not be said that the present petitioner was not heard before passing of the impugned orders. Apart from that, learned counsel for the petitioner could not provide any evidence to show that the respondent No. 2 had ever tried to approach the petitioner or had threatened the petitioner in any manner. Further, the learned counsel for the petitioner has also failed to place on record any evidence to show that the process of law was misused. Even, no material could be

placed on record to show that respondent No. 2 is in a position to tamper with the prosecution evidence. Thus, it is apparent that the impugned orders do not suffer from any material irregularity or illegality. Even otherwise, the law is well settled that the order of cancellation of bail is a harsh order and should not be passed in routine. In the present case also, the Court below has examined the matter in detail and this Court does not find any reason to interfere with the orders passed by the Court below.

7. Accordingly, the petition is ordered to be dismissed.

18.10.2023

(N.S.SHEKHAWAT)

amit rana

JUDGE

Whether reasoned/speaking

:

Yes/No

Whether reportable

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Yes/No