

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

203

CRM-M-49338-2023

Date of decision: 21.12.2023

Chamkaur Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kuljit Singh Bal, Advocate
for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

Mr. Sultan Singh Gill, Advocate
for respondents No.2 to 4.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking cancellation of anticipatory bail granted by learned Additional Sessions Judge, Amritsar to respondents No.2 to 4 vide order dated 01.09.2023 (Annexure P-2) in case FIR No.46 dated 11.06.2023 registered under Sections 323/324/506/148/149 of the IPC (Sections 326/307 of the IPC added lateron) at Police Station Ramdas, District Amritsar Rural.

2. This Court on 10.10.2023 had noticed the following contentions of the learned counsel for the petitioner-complainant:-

“Learned counsel for the petitioner, while drawing the attention of this Court to the impugned order dated 01.09.2023 which has been annexed as Annexure P-2, has submitted that the learned trial Court made the interim order dated 11.08.2023 absolute only on the statement made by the learned counsel for the accused that they had joined investigation and cooperated with the investigating agency. He submits that not only was the said order perverse but it also deserved to be set aside, since it is matter of record that the accused had been extending

threats of dire consequences to the complainant and DDR No.18 dated 17.09.2023 (Annexure P-5) had been recorded against the accused.

Learned State counsel is directed to file a detailed affidavit as to whether the private respondents i.e. Gurbachan Singh, Surjit Singh and Harnek Singh had joined investigation and cooperated with the investigating agency in compliance of order dated 11.08.2023 passed by learned Additional Sessions Judge, Amritsar, in case FIR No.46 dated 11.06.2023 under Sections 323, 324, 506, 148, 149 of IPC (Sections 326/307 of IPC added later on) registered at Police Station Amritsar Rural. Besides, the said affidavit shall also detail the submissions made by the learned counsel for the petitioner qua the alleged threats extended by the private respondents, pursuant to which DDR No.18 dated 17.09.2023 (Annexure P-5) has been recorded.”

3. Thereafter, a detailed affidavit of Dr. Riputapan Singh, PPS, Deputy Superintendent of Police, Sub-Division Ajnala, Amritsar Rural was filed on behalf of respondent No.1-State following by reply on behalf of the private respondents on 08.11.2023.

4. Learned counsel for the petitioner has reiterated his submissions made on the previous dates. It has also been submitted that after the private respondents had been extended the concession of interim bail on 11.08.2023 by the Trial Court, they had encircled the petitioner outside his house on 20.08.2023 at about 06:00 P.M. and inflicted injury on one of his eyes which had led to considerable damage. In support, learned counsel has drawn the attention of this Court to Annexure P-3. Ever since then, he was being threatened by the private respondents to either compromise the matter with them and withdraw the FIR in question or else face dire consequences. Resultantly, the petitioner was left with no other choice but to approach this Court for protection of his life and liberty at the hands of the private respondents. In support, learned counsel has drawn the attention

of this Court to Annexure P-4. It was only after issuance of directions of this Court to the police, the matter was inquired into, leading to the lodging of a DDR against the private respondents. In support, learned counsel has drawn the attention of this Court to Annexure P-5. A prayer has, therefore, vehemently been made that it was evident that the private respondents had been blatantly misusing the concession of bail granted to them and as a result of which the petitioner was facing continuous harassment as well as threat to his life for which the bail granted to the private respondents required to be cancelled.

5. Learned State counsel while drawing the attention of this Court to paragraph 13 of the affidavit filed on behalf of respondent No.1-State, has not disputed the submissions made by learned counsel for the petitioner qua a DDR recorded vide GD No.18 dated 17.09.2023 having indeed been recorded against the private respondents. He has submitted that the information given by the petitioner qua continuous threats being extended to him was found to be credible and it was only after a thorough inquiry carried out that GD No.18 was lodged in the said regard.

6. Per contra, learned counsel for the private respondents No.2 to 4-accused while opposing the prayer made by the learned counsel for the petitioner, has submitted that a false case had been planted upon them and the main injury in the case at hand had not been attributed to them. Hence, the Trial Court could not be faulted with while granting them the concession of anticipatory bail. It has been further submitted that even a false DDR had been lodged at the instance of the complainant as he was hostile towards them. Qua the injury

sustained by the petitioner-complainant, it has been further asserted that the private respondents had no role to play in the occurrence in question on 20.08.2023 wherein the complainant allegedly sustained the aforementioned eye injury.

7. I have heard learned counsel for the parties and perused the relevant material on record.

8. Once the concession of bail has been granted, a Court should exercise utmost restraint in considering its cancellation; the discretion to cancel bail must, therefore, be exercised with a great deal of circumspection. However, if the Court notices that the accused has misused the liberty granted to him post the grant of bail, it should not hesitate to exercise its judicial discretion and cancel the bail.

9. Adverting to the case at hand, as also not disputed by the learned State counsel, the private respondents indeed appear to have misused the said concession. The private respondents have not only been continuously intimidating and pressurizing the petitioner to withdraw the FIR in question, and as also not disputed by the learned State counsel have inflicted serious injuries to his eye.

10. In the facts and circumstances as enumerated hereinabove, this is a fit case wherein the extraordinary concession of anticipatory bail granted to the private respondents has been misused and warrants cancellation.

11. Accordingly, the instant petition is allowed and the anticipatory bail granted to the private respondents vide order dated 01.09.2023 (Annexure P-2) is hereby cancelled and the private respondents shall surrender before the Trial Court within 07 days from

today.

12. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

21.12.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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