

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207 (2 cases)

CRM-M-51579-2022
Date of Decision: 24.03.2023

S.S. Chandel ...Petitioner

Versus

State of U.T., Chandigarh and Another ...Respondents

WITH

CRM-M-51712-2022

S.S. Chandel ...Petitioner

Versus

State of U.T., Chandigarh and Another ...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. H.S. Ghuman, Advocate for the petitioner
(in both petitions)
Mr. Amit Goyal, Addl. P.P., U.T., Chandigarh
(assisted by ASI Padam Singh)

Mr. B.S. Jaswal, Advocate for respondent No.2
(in both petitions)

JAGMOHAN BANSAL, J. (ORAL)

1. Through this common order, CRM-M-51579-2022 & CRM-M-51712-2022 are disposed of as both are interconnected and are arising out of same FIR. For the sake of convenience, facts are being borrowed from CRM-M-51579-2022.

2. The petitioner through instant petition under Section 439(2) Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking cancellation of anticipatory bail granted to respondent No.2 vide order dated 31.01.2019 (Annexure P-3) passed by learned Additional Sessions Judge, Chandigarh in FIR No.51 dated 28.05.2018 under Sections 406, 498-A of Indian Penal Code, 1860 (for short 'IPC') registered at Women Police Station, Chandigarh. Further, prayer has been made for setting aside of order dated 22.04.2022 (Annexure P-5) passed by learned Additional Sessions Judge, Chandigarh vide which petition for cancellation of bail of respondent No.2 has been declined.

3. Learned counsel for the petitioner *inter alia* contends that son of the private respondents has left the country and he has already been declared proclaimed offender. The private respondents are parents-in law of daughter of the complainant. The respondents are not coming forward for settlement in one or another way and they are not further disclosing whereabouts of their son.

4. Learned counsel for private respondents submits that respondents are old age parents of the boy who solemnized marriage with daughter of the complainant. The son of the private respondents and daughter of complainant are staying in Australia. The respondents are facing trial. The charges stand framed and they have never misused concession of anticipatory bail.

5. Learned State counsel, on instructions from ASI Padam Singh, submits that Investigating Officer after completing investigation has filed his report under Section 173 Cr.P.C. Charges stand framed and private respondents at present are on regular bail. He further confirms that State has never found misuse of concession of bail on the part of private respondents, thus, State has not filed any application seeking cancellation of their bail.

6. I have heard learned counsel for the parties and scrutinized the record.

7. The conceded position emerging from record is that private respondents were granted concession of anticipatory bail vide order dated 31.01.2019 passed by Additional Sessions Judge, Chandigarh. The challan stands presented and charges stand framed. The private respondents at present are on regular bail and there is no evidence of misuse of concession of bail on their part. The State has not filed any petition seeking cancellation of bail of the private respondents.

8. From the perusal of record and arguments of learned counsel for the petitioner, it comes out that grievance of the petitioner is that son of private respondents is staying in Australia and though he has been declared proclaimed offender, yet investigating agency is not taking appropriate steps for his arrest. He has not led any evidence of misuse of concession of anticipatory bail granted to private respondents. He is

unable to controvert the fact that respondents are on regular bail and they are regularly appearing before the Trial Court and facing trial.

9. The State is not seeking cancellation of bail and petitioner has not brought on record any evidence disclosing misuse of concession of bail granted by Trial Court. Therefore, there is no reason to cancel the bail already granted by the Court.

10. The parameters of granting and cancellation of bail are totally different. Bail cannot be cancelled unless and until there is evidence of misuse of bail in the form of commission of similar or identical offence, tampering or destruction of evidences, threatening or winning over of witnesses or there is total non-application of mind. Bail already granted cannot be cancelled in a mechanical manner.

11. In the case in hand, there is no evidence of misuse of bail. The Court while granting bail is not supposed to deal with each and every contention of the complainant. A bail once granted cannot be cancelled on the basis of bald allegations of the complainant especially when there is no complaint by prosecuting agency supported by evidence of misuse of bail. From the perusal of impugned orders, it comes out that the Court below while granting regular bail has passed a reasoned order which needs no interference. The present petition being bereft of merit deserves to be dismissed.

12. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

24.03.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>