

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRR-2531-2022

Date of decision : 18.05.2023

Keshav Arora

Petitioner

V/S

State of Punjab and another

Respondents

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Narinder Sharma, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, Asstt. A.G., Punjab
for the respondent-State.

Mr. Ashuthosh Gupta, Advocate
for respondent No.2/complainant.

ASHOK KUMAR VERMA, J.

1. The petitioner has filed the present revision petition for setting aside order dated 31.10.2022 passed by learned Sessions Judge, Patiala whereby the application filed by respondent No.2 under Section 439(2) of the Code of Criminal Procedure, 1973 for cancellation of bail granted to the accused persons in case FIR No.274 dated 03.07.2021 registered under Sections 420, 465, 467, 471 and 120-B of the Indian Penal Code, 1860 at Police Station Kotwali, Patiala, was partly allowed and regular bail granted to the petitioner in the above-said FIR was ordered to be cancelled.

2. The above-said FIR was registered on the complaint made by respondent No.2 alleging that Devinder Pal Arora and his son

Keshav Arora (the petitioner) on the basis of forged documents are trying to grab his shop No.222, Tawakkli Maur, Patiala. The father of the complainant had taken the above-said shop/chabutra on lease from the Punjab Wakf Board in the year 1982-83. The electricity connection of the shop is in the name of his father-Jaswinder Singh. The accused persons while deceiving them, prepare forged affidavit dated 07.08.2018 in the name of his uncle's son Preetinder Singh with intention to illegally occupy the above said shop. The accused has also produced the fake affidavit dated 07.08.2018 in the office of Electricity Board, Patiala and tried to transfer the electricity connection in their name. On 04.07.2021 the local police arrested the petitioner and his father. The petitioner and his father were released on regular bail vide order dated 26.07.2021 and 04.08.2021, respectively, passed by learned Sessions Judge, Patiala. Respondent No.2 filed petition under Section 439(2) of the Cr.P.C. for cancellation of regular bail granted to the petitioner and his father which was partly allowed by learned Sessions Judge, Patiala vide impugned order dated 31.10.2022 whereby order dated 26.07.2021 was vacated and regular bail granted to the petitioner was cancelled. Aggrieved against the impugned order dated 31.10.2022, the petitioner has filed the present revision petition.

3. Learned counsel for the petitioner, inter alia, contends that the trial Court while passing impugned order dated 31.10.2022 has not applied its judicial mind to the facts and circumstances of the case and cancelled regular bail order dated 26.07.2021 in favour of the petitioner

merely on the basis of surmises and conjectures. The impugned order was wrongly passed on the basis of G.D. No.30 dated 19.08.2022 which was registered by the police on the complaint dated 18.08.2022 made by respondent No.2. Investigation in subsequent crime is also completed and GDR No.32 dated 02.12.2022 has been recorded. The trial Court has not considered the fact that whether the alleged violation amounts to an attempt to interfere with the administration of justice or as to whether it affects the trial of the case in which the petitioner is implicated. Mere violation of the condition alone is not sufficient to cancel the bail granted by the Court. Moreover, in the present FIR on the basis of through investigation, cancellation report has been prepared by the police and FIR No.81 dated 19.04.2023 has been registered against respondent No.2, Jaswinder Singh and Ravinder Singh Bhatti. Therefore, the impugned order may be set aside. In support of his submission, learned counsel for the petitioner has placed reliance upon the judgment passed by the Allahabad High Court in ***Surya Narain and others Vs. State of U.P. and others : 1998(3) Crimes 598*** and judgment passed by the Kerala High Court in ***Godson Vs. State of Kerala : 2022(3) Crimes 191***.

4. Per contra, learned State counsel and learned counsel for the complainant have vehemently opposed the present petition on the ground that despite the specific condition imposed by the trial Court it is order dated 26.07.2021 whereby the petitioner was released on bail, on 17.08.2022 at 11.55 p.m., the petitioner hurled abuses to respondent

No.2 and his family and broke window glass of Swift car belonging to respondent No.2 which was parked outside his house. Cash amount of Rs.20,000/-, keys of the shop, ID card and purse of respondent No.2 were also taken away. Since the petitioner has violated the terms and condition imposed by the trial Court while granting regular bail to him, the trial Court has rightly passed the impugned order dated 31.10.2022 and cancelled the regular bail granted to the petitioner. Therefore, the present revision petition is not maintainable and is liable to be dismissed.

5. I have heard learned counsel for the parties and gone through the paper-book.

6. Before proceeding further, it will be convenient to refer to the bail order dated 26.07.2021 passed by learned Sessions Judge, Patiala whereby the petitioner was ordered to be released on bail. The concluding para of the said order reads as under:-

“4. The applicant was arrested on 3.7.2021. He has already been remanded to judicial custody. The presentation of the challan and disposal of case will take sufficient time. The affidavit does not bear signatures of the applicant. The question as to if said affidavit is fake or genuine is disputed question of facts to be determined during the course of trial particularly in view of the fact that affidavit in question purport to bear signatures of Jaspal Singh, father of the deponent as witness. Without commenting on the merits of the case, the application is allowed and the applicant-accused is ordered to be released on bail on his furnishing bail bonds in the sum of Rs.30,000/- with one surety in the like amount to the satisfaction of the Illaqa/Duty Magistrate, subject to the following conditions:-

i) that the applicant shall not leave the country

without the prior permission of the Illaqa Magistrate till presentation of challan and thereafter without the permission of the trial Court;

ii) that the applicant-accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police officer;

iii) that the applicant-accused shall regularly attend the hearing before the trial Court;

In case the applicant mis-uses the concession of bail by absenting himself from the proceedings, the trial Court shall be at liberty to cancel this bail order. The file be consigned to the record room.”

7. From the bare reading of above-said bail order it is revealed that the petitioner was ordered to be released on bail subject to the specific condition that *he shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police officer.*

8. However, as per G.D. No.30 dated 19.08.2022 a complaint was made by respondent No.2 against the petitioner alleging that on 17.08.2022 in the night, the petitioner broke the front and rear glass of driver's side of his Swift car bearing registration No.PB-11-BM-3503. The CCTV footage presented by respondent No.2 also carefully examined, on which the petitioner is clearly seen breaking the glass of the above-said car and after breaking the glass, he is seen hurrying leaving towards the Shera Wala Gate, Patiala. Respondent No.2 also mentioned about theft of cash and other goods from the car, in this

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regard, still no concert evidence has come out which is being investigated.

9. A perusal of G.D. No.30 dated 19.08.2022 clearly shows that in order to threatened the complainant, the petitioner had damaged his car which is clear violation of the stipulation restraining him from indulging in any such activities. Even in G.D. No.32 dated 02.12.2022 (Annexure P-8) relied upon by learned counsel for the petitioner it is specifically mentioned that in a fit of anger glass of car has been broken down by the petitioner but he did not commit any theft. The said act of the petitioner was captured in the CCTV camera.

10. In view of above, I am of the considered view that the petitioner has deliberately failed to abide by the terms and conditions of bail order dated 26.07.2021, and I find no illegality or perversity in the impugned order dated 31.10.2022 passed by learned Sessions Judge, Patiala whereby the bail of the petitioner has been cancelled.

11. Accordingly, the present revision petition, being devoid of merits, is hereby dismissed.

18.05.2023

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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No