

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

106

CRM-M-60672-2023 (O&M)

Date of decision: 04.12.2023

Deepak

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Parveen Kaushik, Advocate for the petitioner.

VIKAS SURI, J.

1. Prayer in this petition filed under Section 439(2) Cr.P.C. is for setting aside anticipatory bail granted to respondent Nos.2 to 5 by learned Addl. Sessions Judge, Gurugram vide order dated 16.11.2023 (Annexure P-2) in case FIR No.0137 dated 27.05.2023, under Sections 306 & 506 IPC, registered at Police Station Bhondsi, District Gurugram.

2. Learned counsel for the petitioner submits that learned Addl. Sessions Judge, Gurugram has not appreciated the facts of the case in the correct perspective. It is further submitted that respondent Nos.2 to 5 were specifically named in the suicide note.

3. On advance notice, Ms. Ambika Sood, Addl. A.G. Haryana, has put in appearance on behalf of respondent-State and submitted that petitioner has not detailed any ground or pleaded any material involving review of the decision already made while granting anticipatory bail and

thus prays that the present petition deserves to be dismissed on that account alone.

4. Heard learned counsel for the parties.

5. There is no doubt that cancellation of bail would involve review of a decision already made and is to be permitted only if by reason of supervening circumstances, it would no longer be conducive to a fair trial if the accused is allowed to retain his personal liberty during trial. The Apex Court in *State (Delhi Administration) vs. Sanjay Gandhi*, (1978) 2 SCC 411 and *Raghubir Singh and others vs. State of Bihar*, (1986) 4 SCC 481, while considering the provisions of Section 439(2) Cr.P.C., dealt with the grounds on which bail can be cancelled.

6. In **Sanjay Gandhi's case** (supra), it was held that rejection of bail is one thing and cancellation of bail already granted is quite another. In **Raghubir Singh's case** (supra), the Apex Court enumerated some of the grounds for cancellation of bail. The relevant part of the judgment reads as thus:-

“Generally the grounds for cancellation of bail, broadly, are, interference or attempt to interfere with the due course of administration of justice, or evasion or attempt to evade the course of justice, or abuse of the liberty granted to him. The due administration of justice may be interfered with by intimidating or suborning witnesses, by interfering with investigation, by creating or causing disappearance of evidence etc. The course of justice may be evaded or attempted to be evaded by leaving the country or going underground or otherwise placing himself beyond the reach of the sureties. He may abuse the liberty granted to him by indulging in similar or other unlawful acts.”

7. In the present case, it has not been pleaded nor any material brought on record to suggest that the accused are not cooperating with the investigation or have violated any conditions of the bail order or hampered with the investigation in any manner. The same is to be resorted to in cases of patent perversity. The rejection of bail in a non-bailable case and the cancellation of bail so granted have to be dealt with and considered on the basis of separate yardsticks. The bail already granted can be cancelled in the event there exists cogent and overwhelming circumstances to do so. It is settled law that the jurisdiction for cancellation of bail has to be exercised with care and circumspection.

8. In the case in hand, nothing has been shown that there was any *prima facie* abetment on the part of accused/respondents, which was one of the circumstances noticed in the impugned order while granting the concession of anticipatory bail. It is not the case of the petitioner that accused/respondents are hardened criminals and involved in other criminal cases as such. Also there is no allegation that respondent Nos.2 to 5, all being women, will flee from justice, hamper the investigation or intimidate the witnesses. Thus, the reasons which appear from the impugned order to have weighed in the mind of the Court while granting pre-arrest bail can be termed to be sufficient to exercise jurisdiction under Section 438 Cr.P.C. Rejection of bail stands on one footing but cancellation of bail being a harsh order, as it interferes with liberty of the individual, should not be lightly resorted to.

9. In view of the above discussion, this Court does not find the impugned order to suffer from any illegality or perversity, which may provide legitimate ground for this Court to order cancellation thereof.
10. Resultantly, the petition is dismissed.

December 04, 2023
sumit.k

(VIKAS SURJ)
JUDGE

Whether speaking/reasoned : Yes / No
Whether Reportable : Yes / No