



CRM-M-6554-2020

-1-

**205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-6554-2020

Decided on : 29.08.2024

State of Haryana

..... Petitioner

Versus

Sita Ram and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Trishanjli Sharma, DAG, Haryana.

Mr. Himanshu Arora, Advocate
for respondent No.1.Mr. Gautam Dutt, Advocate with
Mr. Ribhav Singla, Advocate
for the complainant.

Manjari Nehru Kaul, J.(Oral)

1. This is the petition filed by the State under Section 439(2) Cr.PC for cancellation of anticipatory bail granted to the respondents by learned Addl. Sessions Judge, Rohtak vide order dated 04.04.2019 in case FIR No.467 dated 02.08.2018 under Sections 420, 467, 468, 471, 506 and 120-B IPC registered at Police Station Shivaji Colony District Rohtak.

2. Learned counsel appearing for the State assisted by learned counsel for the complainant submits that the order granting anticipatory bail to the respondents (Annexure P-2) suffers from patent illegality. It is further submitted that the trial court in the



CRM-M-6554-2020

-2-

impugned order erroneously observed that custodial interrogation of the respondents-accused was not required, as the case was based on documentary evidence, which had already been collected by the investigating officer during investigation. It has been argued that this observation in the impugned order is factually incorrect and contrary to the prosecution's stand regarding the necessity of the custodial interrogation of the respondents-accused. Rather crucial documents, including the sale deeds dated 10.04.1958, on which the case of the prosecution heavily depends, are yet to be recovered from the respondents-accused, thereby making their custodial interrogation imperative. Furthermore, it has been argued that the prosecution, in its reply to the application of the respondents-accused for anticipatory bail, before the trial court, had expressed apprehension that the respondents-accused might tamper with evidence or threaten witnesses, which was overlooked by the learned trial court when granting anticipatory bail to the accused vide the impugned order.

3. Upon a specific query, learned State counsel has, however, not disputed that after being granted anticipatory bail, the accused-respondents have not violated any conditions or misused the concession of bail. However, it has been asserted that since the impugned order suffers from patent illegality, the bail granted to the respondents-accused ought to be cancelled.



4. Per contra, learned counsel for the accused-respondents has opposed the prayer and submissions made by learned State counsel by arguing that the impugned order does not warrant any interference. It has been contended that the respondents-accused were not in possession of the documents as alleged by the learned State counsel. Furthermore, the investigating officer himself stated before the learned trial court that all the requisite documents had already been handed over by the respondents-accused during investigation. In support, learned counsel has drawn the attention of this Court to paragraph 9 of the impugned order wherein the said fact stands duly reflected.

5. Learned State counsel has been unable to dispute that the investigating officer did indeed confirm before the trial Court that all necessary documents were already in the possession of investigating agency.

6. I have heard learned counsel for the parties and perused the material placed on record.

7. It is vital to emphasise that personal liberty is one of the most cherished constitutional guarantees available to a citizen, which cannot be restricted or taken away, except in accordance with the procedure established by law. Similarly, once bail is granted to an accused, it cannot be cancelled arbitrarily. The law is well-settled that bail can only be cancelled if the accused has misused this liberty,



CRM-M-6554-2020

-4-

breached the conditions imposed, or if the order granting bail suffers from any infirmity or illegality.

8. Adverting to the case in hand, it is undisputed by both the learned counsel for the State as well as the complainant that the accused have not misused the concession of bail granted by the trial court vide impugned order, nor have they violated any of the imposed conditions. Learned State counsel as well as learned counsel for the complainant are seeking cancellation of bail of the respondent-accused solely on the ground that the trial court erroneously observed in the impugned order that all requisite documents had been collected by the investigating agency and thus, the custodial interrogation of the accused was not required due to their cooperation during investigation.

9. It is crucial to note that the State had previously also approached the trial court for cancellation of the anticipatory bail granted to the respondents-accused, however, the said application was dismissed after the trial court took into account the categorical statement made by the investigating officer before the trial court that all necessary documents had been collected and the respondents-accused had cooperated with the investigation. Furthermore, as the sale deed in question is a registered document, its execution and the authenticity could always be verified from the office of the Sub Registrar.

10. Given these circumstances, the assertion made by both the learned counsel for the State as well as the complainant that the trial



CRM-M-6554-2020

-5-

court had erroneously granted anticipatory bail to the respondents-accused based on incorrect observations about the cooperation of the respondents-accused and the handing over of the documents, is without merit and contrary to the material on record. The State cannot be permitted to take contradictory and inconsistent positions at the expense of an individual’s liberty especially when the present case of the prosecution primarily hinges on documentary evidence.

11. In the facts and circumstances as enumerated hereinabove, this Court does not found any ground to cancel the anticipatory bail granted to the respondents-accused. Accordingly, the instant petition stands dismissed.

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.

29.08.2024
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(MANJARI NEHRU KAUL)
JUDGE

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