

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12098-2023
Reserved On.: 18.01.2024
Pronounced On: 22.01.2024

Sachin Yadav

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Robin Singh Hooda, Advocate
for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J.

By way of this petition filed under Section 482 Cr.P.C., petitioner prays for quashing order dated 02.03.2023 (Annexure P-1) passed by learned Sessions Judge, Rewari, whereby anticipatory bail earlier granted to the petitioner vide order dated 07.07.2022 in case FIR No.239 dated 16.09.2021 registered at Police Station Kosli, District Rewari under Sections 420, 34, 120-B of the IPC & Section 66 of Information Technology (Amendment) Act, 2008, was cancelled on an application moved by State of Haryana under Section 439 (2) Cr.P.C.

2.1 Perusal of the paper-book would reveal that FIR was lodged on the basis of information received by the police to the effect that Sachin son of Vinay Kumar (co-accused) was hacking papers of Air Force, DMRC, ITBP, Clerk and Lineman of Haryana by hacking the system. One candidate had

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informed about leakage of the examination papers for the post of LDC in Electricity Department of Haryana State Selection Commission. During enquiry, Sachin Yadav (petitioner), Deepak Yadav, Yogesh, Pritam, Amit Kumar, Pooja Yadav, Priti, Deepak, Manoj Kumar, Rajesh, Sandeep, Ramphal and Madan Lal were found to be connected telephonically with the main accused Sachin son of Vinay. Call detail records were collected.

2.2 After registration of the FIR, necessary investigation was conducted. Sachin son of Vinay Kumar was arrested on 15.05.2022 and during interrogation, he suffered disclosure statement admitting his involvement in the crime. He further disclosed the name of the petitioner. An audio recording of the telephonic conversation between co-accused Pooja Yadav and Sachin son of Vinay Kumar was also collected during investigation.

2.3 Petitioner Sachin Yadav was allowed anticipatory bail by the Court of Sessions vide order dated 07.07.2022 but petitioner did not co-operate in the investigation and did not divulge the relevant information to carry forward the investigation and so, an application for cancellation of bail of the petitioner was moved, which was allowed by way of impugned order dated 02.03.2023.

3.1 It is contended by learned counsel appearing on behalf of the petitioner that petitioner is being harassed and threatened to be arrested only on the basis of disclosure statement of co-accused; that occurrence had taken place during 24.02.2020 to 03.03.2020, whereas FIR has been lodged on 16.09.2021 i.e. after a delay of about 19 months; that petitioner was not named in the FIR; that documentary material does not show the involvement of the petitioner; that

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there is no apprehension of the petitioner being in a position to tamper with the evidence.

3.2 Learned counsel for the petitioner has referred to ***“Dolat Ram & Ors. v. The State of Haryana”*** (1995) 1 SCC 349 in order to contend that parameters for grant of anticipatory bail are quite different from the parameters required to be considered for cancellation of the bail earlier granted and that anticipatory bail once granted cannot be cancelled in a causal manner. Learned counsel contends that petitioner joined the investigation on 05.07.2022 but the investigating agency slept over the matter till 16.11.2022. Petitioner was again repeatedly called to join the investigation and whatever information was available with him, the same was divulged by him. Learned counsel contends that in these circumstances, the bail earlier granted to the petitioner has been wrongly cancelled.

4. Strongly opposing the petition, learned State counsel submits that despite grant of anticipatory bail by the Court and specific direction to co-operate in the investigation, petitioner did not co-operate in the investigation. Petitioner did not disclose the relevant information with regard to the other co-accused or regarding the place, where co-accused Pooja and other aspirants used to tutor them about the leaked examination paper. Because of this adamant attitude of the petitioner, the investigation came to a dead end. Petitioner neither not disclosed as to who had leaked the questions to Pooja Yadav and other candidates nor the modus operandi adopted by the accused to leak the paper. Learned State counsel submits that it is important to get the custody of the petitioner to identify the other candidates, who got the exam

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cleared due to leakage of the paper and who have been selected without merits and that in case petitioner is granted the concession of pre-arrest bail, it will not be known as to what was the modus operandi and who were the co-conspirators to the entire crime. Besides, it is necessary to ascertain about the involvement of any other Government employee or agency in getting the paper leaked. Not only this, an amount of ₹7,00,000/- is to be recovered from the petitioner. As per the investigation conducted so far, petitioner is instrumental, who in collusion with other co-accused was leaking the papers and is part of the larger gang involved in leaking of the papers by using unfair and illegal means. Prayer is made for rejecting the petition.

5. I have considered submissions of both the sides and perused the record.

6. In present case, before considering the contentions raised in this petition, certain principles, which govern the grant of anticipatory bail, are required to be noticed. In ***Sushila Aggarwal Vs. State (NCT of Delhi), (2020) 5 SCC 1***, Hon'ble Supreme Court has enunciated the considerations that must govern the grant of anticipatory by holding as under: -

92.3...While considering an application (for grant of anticipatory bail) the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence (including intimidating witnesses), likelihood of fleeing justice (such as leaving the country), etc.

92.4. Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion; equally whether and if so, what kind of special conditions are to be imposed (or not imposed)

are dependent on facts of the case, and subject to the discretion of the court.”

7. Similarly, in ***Neeru Yadav Vs. State of UP & Anr., (2016) 15 SCC 422***, it was held by Hon’ble Supreme Court as under: -

“11. It is the duty of the Court to take into consideration certain factors and they basically are, (i) the nature of accusation and the severity of punishment in cases of conviction and the nature of supporting evidence, (ii) reasonable apprehension of tampering with the witnesses for apprehension of threat to the complainant, and (iii) Prima facie satisfaction of the court in support of the charge.”

8. Proceeding ahead, there can be no doubt that all the aforesaid factors are required to be taken into consideration while granting anticipatory bail to an accused, but it is a well-established principle that once bail has been granted, it would require cogent and overwhelming circumstances for its cancellation. At the same time, equally important is to note that bail can be revoked by the superior court, if the court granting bail has ignored relevant material available on record, as observed by the Hon’ble Supreme Court in ***Vipan Kumar Dhir Vs. State of Punjab 2021 SCC OnLine SC 854***.

9. In ***State Through Delhi Administration vs Sanjay Gandhi, 1978 AIR 961***, it has been observed by Hon’ble Apex Court that:

“Rejection of bail when bail is applied for is one thing; cancellation of bail already granted is quite another. It is easier to reject a bail application in a non-bailable case than to cancel a bail granted in such a case. Cancellation of bail necessarily involves the review of a decision already made and can by and large be permitted only if, by reason of supervening circumstances, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during the trial.”

10. In ***Ms. X vs The State of Telangana (2018) 16 SCC 511***, Hon'ble Supreme Court held that:

*"In a consistent line of precedent this Court has emphasized the distinction between the rejection of bail in a non-bailable case at the initial stage and the cancellation of bail after it has been granted. In advertent to the distinction, a Bench of two learned Judges of this Court in **Dolatram v State of Haryana [(1995) 1 SCC 349]** observed that:*

"Rejection of a bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. (Generally speaking, the grounds for cancellation of the bail, already granted, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion of attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial."

*These principles have been reiterated by another two Judge Bench decision in **Central Bureau of Investigation, Hyderabad v Subramani Gopalakrishnan (2011) 5 SCC 296** and more recently in **Dataram Singh v State of Uttar Pradesh (2018) 3 SCC 22***

"It is also relevant to note that there is difference between yardsticks for cancellation of bail and appeal against the order granting bail. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail already granted. Generally speaking, the grounds for cancellation of bail are, interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concessions granted to the accused in any manner. These are all only few illustrative materials. The satisfaction of the

Court on the basis of the materials placed on record of the possibility of the accused absconding is another reason justifying the cancellation of bail. In other words, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial."

11. In ***Myakala Dharmarajam Vs. The State of Telangana, (2020) 2 SCC 743***, it has been held by the Hon'ble Supreme Court: -

"9. It is trite law that cancellation of bail can be done in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant material indicating prima facie involvement of the Accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in canceling the bail."

14. The Hon'ble Supreme Court in Criminal Appeal No.658 of 2022 (arising out of SLP (Crl) NO.27 of 2022) titled as ***Imran Vs. Mr. Mohammed Bhava and another*** decided on 22.04.2022, has held as under:

"26. Thus, while considering cancellation of bail already granted by a lower court, would indeed require significant scrutiny at the instance of superior court, however, bail when granted can always be revoked if the relevant material on record, gravity of the offence or its societal impact have not been considered by the lower court. In such instances, where bail is granted in a mechanical manner, the order granting bail is liable to be set aside. Moreover, the decisions cited herein above, enumerate certain basic principles which must be borne in mind when deciding upon an application for grant of bail. Thus, while each case has its own unique factual matrix, which assumes a significant role in determination of bail matters, grant of bail must also be exercised by having regard to the above-mentioned well-settled principles".

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15. Keeping in mind the legal position as above, when the factual matrix of the present case are examined, it is noticed that in the impugned order dated 02.03.2023 (Annexure P-1), learned Session Judge, Rewari noticed that due to non-operative attitude of the petitioner in the investigation, despite being granted anticipatory bail earlier, the investigation had reached a dead end. As per the investigation, the co-accused Pooja Yadav was tutored regarding the question paper by Sachin Yadav (petitioner) and others. It was also disclosed by Pooja Yadav that she along with Sachin Kumar had gone to Rajiv Chowk, Metro Station, Delhi, where they had met Sachin Yadav (petitioner), who had taken her to an unknown place, where she was taught a question paper by few tutors in the intervening night of 24/25.02.2020 and 25/26.02.2020.

16. In the aforesaid circumstances, this Court agrees with the observations made by the learned Sessions Judge that custodial interrogation of the petitioner may be necessary so as to unearth the entire truth. No error has been committed by the Sessions Judge, Rewari in canceling the anticipatory bail earlier granted to the petitioner.

Finding no merit in the petition, same is hereby dismissed.

(DEEPAK GUPTA)
JUDGE

January 22, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No