

220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25660-2019 (O&M)
Date of decision : 03.04.2024

STATE OF HARYANAPetitioner

Versus

PARAMJEET ALIAS PARMARespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. A.K. Sehrawat, DAG, Haryana
for the petitioner.

Mr. Sukesh K. Jindal, Advocate
for the respondent.

Mr. J.S. Dahiya, Advocate
for the complainant.

PANKAJ JAIN, J. (ORAL)

Prayer in the instant petition filed under Section 439(2) Cr.P.C.
r/w Section 482 Cr.P.C. is for cancellation of bail order dated 4th of
December, 2018 whereby the respondent was admitted to bail in case FIR
No.33, dated 28th of January, 2017 registered for the offences punishable
under Sections 323, 332, 353, 365, 395, 307, 302 and Section 25 of Arms
Act, 1959 at Police Station Sadar Sonipat.

2. The respondent was booked in the aforesaid FIR. His bail plea
was allowed by this Court vide impugned order observing as under :

“Learned counsel for the petitioner *inter alia* contends that
petitioner was not present in the subsequent occurrence. Petitioner
has not been attributed any firearm injury to the deceased. He has
falsely been implicated. Petitioner is in custody since 28.01.2017

i.e. approximately more than one year and ten months. Out of 48 prosecution witnesses, only one has been examined so far. Therefore, conclusion of trial may take sufficient long time. No useful purpose would be served by detaining the petitioner in jail any more.

On the other hand, learned State counsel vehemently opposed grant of regular bail to the petitioner.

Considering overall facts and circumstances, but without expressing any opinion on the merits of the case, the petition is allowed. Consequently, petitioner is ordered to be released on bail during pendency of trial, on his furnishing bail bonds and surety bonds to the satisfaction of Trial Court/Duty Magistrate concerned.”

3. The cancellation of bail is being sought alleging as under:

“(2) That however, during the course of hearing of subsequent bail application of accused namely Ravinder @ Tobar in CRM-M No.4316 of 2019, it came to the light that the role of the accused (respondent hereinafter), Paramjeet @ Parma is akin to Ravinder @Tobar. Subsequently, after going through the order dated 04.12.2018 of granting bail to Paramjeet @ Parma, it came to light that one of the contentions of the counsel for the accused/respondent was that respondent was not present in the second occurrence. However, this contention of the counsel for the accused (present respondent) is totally mis-conceived and wrong because even if go by the FIR the complainant has categorically mentioned that the respondent alongwith other accused has beaten the injured persons and took away the, official pistol of the police and fired in the air while fleeing. And further pleaded that suitable action be taken against him and other accused. Meaning thereby, the respondent was very much present in the second occurrence happened in the night. Furthermore, after going through the police file it has come in the disclosure statement of Paramjeet @ Parma alongwith the statement of co-accused namely Ravinder @ Tobar, Manoj, Sumit and Amit that accused namely Paramjeet @ Parma was very much present in the occurrence alongwith accused Manoj

who fired at the deceased Sandeep. Therefore, the very much contention of the counsel for the accused (present respondent) before the Hon'ble Court that the present accused namely Paramjeet @ Parma was not present at the time of occurrence is totally wrong and therefore, the Hon'ble Court while considering this fact as one of the circumstance among over all circumstances granted bail to accused Paramjeet @ Parma. Moreover, there are two other cases registered against Paramjeet @ Parma i.e. FIR No. 497 dated 21.11.2012 under Section 147/148/307 IPC and 25/54/59 of Arms Act, P.s. Kharkhoda Distt. Sonapat and another case FIR No. 77 dated 20.02.2019 under Section 304/34 IPC, I.S. Sadar Sonapat. In the FIR No. 497 he has been acquitted while in FIR No. 77 the trial is pending. Copy of disclosure statement of Paramjeet @ Parma, alongwith recovery memo of weapon and copies of disclosure statements of Ravinder @ Tobar, Manoj, Sumit, Manjit and Amit are enclosed herewith as **Annexure P-3 to P-9.**”

4. On being asked as to how the argument raised by counsel for the petitioner (herein respondent) as noticed in the order dated 4th of December, 2018 can be said to be factually wrong, State counsel refers to the confessional statements made by co-accused(s) while in police custody. He further submits that on the basis of disclosure made by co-accused, pistol was recovered from the respondent and thus, the same would be admissible under Section 27 of the Evidence Act.

5. Counsel for the complainant has also appeared and has argued that there are serious allegations against the respondent who is a dreaded gangster. His antecedents are evident from the fact that he is facing two more FIRs and one is after he got admitted to bail.

6. Per contra, counsel for the respondent however has taken the Court to the petition filed by him under Section 439 Cr.P.C. wherein the respondent was granted bail and has referred to Para (e) which reads as under:

“e. That complicity of the petitioner in the second incident is only on the basis of his own confessional statement and that of the other accused made to the police. Such confessional statements cannot be proved against him due to bar under Section 25 of the Indian Evidence Act, 1872.”

7. Counsel for the respondent submits that the specific averment was made that the petitioner (herein respondent) has been arraigned as accomplice only on the statement made by the co-accused. He further submits that so far as the other two FIRs i.e. No.497 dated 21st of November, 2012 and FIR No.77 dated 20th of February, 2019 are concerned, the respondent already stands acquitted in both of them.

8. Having heard rival contention of counsels representing the parties and after carefully going through records of the case, I find that the present petition sans merit and deserves to be dismissed.

9. So far as the plea w.r.t. wrong averment at the time of grant of bail is concerned, the same is misconceived. Counsel for the respondent is right in contending that so far as the confessional statements made by co-accused(s) are concerned, the same were specifically pleaded in the bail plea and thus it cannot be said that the respondent was guilty of concealment or mis-statement of facts.

10. So far as the fact of confessional statements being admissible under Section 27 of the Evidence Act is concerned, it is settled law that in case any recovery is made pursuant to the confessional statement(s) made in the police custody, it does not render admissibility to whole of the statement but only to that part of statement which stands proved in terms of the recovery.

11. The Supreme Court also in the case of **Venkatesh @ Chandra & anr. Etc. versus State of Karnataka, 2022(2) R.C.R.(Criminal) 885** held that only that part of statement of accused should be marked for evidence which leads to discovery of facts and not the whole statement, observing as under:

“19. We must observe that we have repeatedly found a tendency on part of the Prosecuting Agency in getting the entire statement recorded rather than only that part of the statement which leads to the discovery of facts. In the process, a confession of an accused which is otherwise hit by the principles of Evidence Act finds its place on record. Such kind of statements may have a direct tendency to influence and prejudice the mind of the Court. This practice must immediately be stopped. In the present case, the Trial Court not only extracted the entire statements but also relied upon them.”

12. The respondent was granted bail vide order dated 4th of December, 2018. So far there is no allegation that he tried to tamper with the evidence or threatened any witness in the last six years. Resultantly, no

ground for cancellation of bail is made out and thus the present petition is ordered to be dismissed.

April 03, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No