



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

206

CRM-M-28623-2024

Date of decision: 04.12.2024

Yogesh Garg

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Shivansh Malik, Advocate and
Mr. Aryan Suri, Advocate
for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

Mr. Anuj Mehta, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking cancellation of bail under Section 439(2) of the Cr.P.C. granted to respondent No.2 (accused) vide order dated 02.05.2024 (Annexure P/6) by the learned Trial Court in case FIR No.36 dated 27.01.2024 under Sections 148, 149, 323, 506(ii), 120-B, 307 of the Indian Penal Code, 1860, registered at Police Station Urban Estate, Rohtak, District Rohtak.

2. Learned counsel for the petitioner has sought cancellation of the anticipatory bail granted to respondent No.2 by the learned Trial Court vide its impugned order dated 02.05.2024 (Annexure P/6). The primary contention advanced is that the order suffers from a lack of adequate reasons and fails to appreciate the facts in their proper perspective.



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3. Learned counsel for the petitioner has argued that respondent No.2 is the key conspirator in the alleged grievous attack on the petitioner. It is asserted that this role alone warrants the cancellation of anticipatory bail. Furthermore, learned counsel has referred to the status report of the investigating officer dated 02.05.2024 which allegedly reflects a lack of cooperation by respondent No.2 during the investigation. Despite these aspects, it has been urged that the learned Trial Court granted anticipatory bail to respondent No.2 without recording cogent reasons.

4. On the other hand, learned counsel for respondent No.2 has vehemently opposed the prayer and submissions made by the counsel opposite, by submitting that the impugned order did not warrant any interference, moreso, when it is a case of false implication coupled with the fact that in compliance of the order of the learned Trial Court, respondent No.2 had joined investigation; after respondent No.2 had been granted the concession of anticipatory bail, he had not misused the said concession of anticipatory bail.

5. On a pointed query put to the learned State counsel, he, on instructions, has categorically also submitted that there has been no instance of respondent No.2 misusing the concession of bail or interfering with the investigation process. This factual position has also not been refuted by the learned counsel for the petitioner. Additionally, it is not denied that respondent No.2 did join investigation and that the only role attributed to him is that of a conspirator.

6. I have heard learned counsel for the parties and perused the



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relevant material on record.

7. It is a cardinal principle that bail is the rule, and jail is the exception. Hon'ble the Supreme Court has repeatedly emphasized that the purpose of bail is not punitive but to ensure the presence of the accused during trial. The cancellation of bail, therefore, is an extraordinary remedy and must be invoked only in rare and compelling circumstances. Cogent and overwhelming reasons must exist to justify such interference with the liberty of an individual.

8. The parameters for cancellation of bail were reiterated by Hon'ble the Supreme Court in ***Prabhakar Tiwari Vs. State of U.P.:*** (2020) SCC Online 75, where the Apex Court underscored that :

- Bail once granted should not be cancelled lightly;
- the grounds for cancellation must be exceptional and substantiated by material evidence;
- Mere seriousness of the offence or allegations, by themselves, cannot be sufficient grounds to deny or cancel bail unless they are coupled with compelling circumstances such as interference with the investigation, influencing witnesses, tampering with evidence, or commission of another offence while on bail.

9. Hon'ble the Supreme Court in ***Prabhakar Tiwari's case*** (*supra*) observed :

“7. On considering the submissions of the learned counsel for the parties. Having regard to the circumstances of this case, in our opinion, there has been no wrong or improper exercise of discretion on the part of the High Court in granting bail to the accused. The factors outlined in the case of Mahipal (supra) for testing the legality of an order granting bail are absent in the order impugned. The materials available do not justify arriving at the conclusion that the order impugned suffers from non-application of mind or the reason for granting bail is not borne out from a prima-facie view of the evidence on



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record. The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail. The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex-facie error in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order of the High Court granting bail. This appeal is dismissed.”

10. In the present case, no material has been brought forth either by the learned counsel for the petitioner or by learned counsel for the State with respect to any interference with the investigation by respondent No.2 or of influencing witnesses or abusing the liberty granted by way of anticipatory bail. The learned State counsel on instructions has unequivocally stated that respondent No.2/accused cooperated with the investigation and has not violated any condition imposed upon him. Moreover, it is not disputed that respondent No.2 was not present at the scene of crime and no injuries have been directly attributed to him.

11. It is also pertinent to note that Article 21 of the Constitution of India guarantees the fundamental right to personal liberty. This right must not be curtailed arbitrarily or without substantial justification. Granting anticipatory bail is a judicial exercise aimed at balancing the rights of the accused with the need to ensure the integrity of the investigation.

12. In view of the above discussion, and considering the lack of any material evidence suggesting misuse of bail or interference with the judicial process, this Court finds no compelling grounds to interfere



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with the impugned order dated 02.05.2024 (Annexure P/6), the learned Trial Court's decision to grant anticipatory bail to respondent No.2 does not suffer from any illegality, arbitrariness or lack of application of mind. Accordingly, the petition seeking cancellation of bail is hereby dismissed being devoid of merit.

13. 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.

04.12.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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