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

CRM-M-31830-2023 (O&M)

Date of decision : 23.04.2024

Raj Kumar

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Bikramjit Singh, Advocate,
for Mr. Jasinder Singh Thind, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

Mr. Keshav Pratap Singh, Advocate,
and Mr. Sarfraz Singh Gill, Advocate,
for respondent Nos.2 & 3.

MAHABIR SINGH SINDHU, J.

Petition under Section 439(2) of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') has been filed for cancellation of pre-arrest bail granted to respondent Nos.2 & 3, vide order dated 16.05.2023 (P-5), passed by learned Additional Sessions Judge, Sirsa (for short, 'ASJ'), in FIR No.173 dated 25.04.2023, under Section 365 of the Indian Penal Code, 1860, registered at Police Station Sadar Sirsa, District Sirsa.

2. Contends that learned ASJ granted pre-arrest bail to petitioners while wrongly observing that complainant did not make any phone call to the Police after abduction of his father. In fact, the Police was immediately informed about the incident and as such, present FIR

under Section 365 IPC stood registered on 25.04.2023 itself. Further contended that learned ASJ again erred while noticing in the order impugned that the MLR of the victim did not reveal that his hand had been tied; whereas, 11 injuries were noticed on his body.

3. *Per contra*, learned State counsel, on instructions, submits that there is no complaint regarding misuse of concession by the petitioners.

4. Learned counsel for respondent Nos.2 & 3, while opposing the prayer, contends that averments raised by the complainant-petitioner relate to the factual aspect of matter and which were duly considered while granting bail by learned ASJ. Moreover, there is no allegation that private respondents have misused the concession of pre-arrest bail.

5. Heard learned counsel for the parties and gone through the paper-book.

6. In *State (Delhi Administration) Versus Sanjay Gandhi (1978) 2 SCC 411*, a three-Judge Bench of Hon'ble the Supreme Court made the following elemental distinction in defining the nature of exercise while cancelling the bail:-

“Rejection of bail when bail is applied for is one thing; cancellation of bail already granted is another. It is easier to reject a bail application in a non-bailable case than to cancel a bail already 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.”

7. Concededly, there is no allegation that respondent Nos.2 or 3 have misused the concession of bail granted by learned ASJ on 16.05.2023. The argument raised by learned counsel for the petitioner that police was informed timely would be a matter of evidence to be proved during trial, at appropriate stage and the same cannot be a ground to set aside the order impugned.

8. In view of the above, there is no option except to dismiss the petition.

9. Ordered accordingly.

10. Needless to say that the above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present petition.

11. Pending application(s), if any, shall also stand disposed off.

23.04.2024
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(MAHABIR SINGH SINDHU)
JUDGE

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