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

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CRM-M-40232-2021 (O&M)

Date of decision: 30.09.2024

Karan Singh**...Petitioner****Versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. H. S. Randhawa, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

Mr. J. S. Dhaliwal, Advocate
for respondent No. 2/accused.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 439(2) of Cr.P.C. seeking cancellation of anticipatory bail granted to respondent No. 2-Satnam Singh in cross version bearing GD No. 28 dated 18.01.2020, registered under Sections 307, 323, 34 of IPC and Section 25 of the Arms Act, 1959 arising out of FIR No. 07 dated 18.01.2020, registered under Sections 452, 304, 323, 148 and 149 of IPC at Police Station Ghanaur, Tehsil Rajpura, District Patiala, vide order dated 24.08.2020, passed by the coordinate Bench of this Court in **CRM-M-13405-2020**.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR No. 07 had been registered on 18.01.2020, on the basis of the statement recorded by the complainant

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Baljinder Kaur, wife of the present petitioner, alleging therein that on the same day, she was present in her house along with her husband i.e. respondent No. 2-Satnam Singh and father-in-law Lal Singh, when Jassa Singh, Khandu, Baljinder Kaur and two nephews of Jassa Singh entered into her house while being armed with sticks and started extending beatings to her husband and father-in-law by giving fist blows and kicks to them. Victim Lal Singh was then dragged into street and was extended beatings. She alleged that in order to protect his father, her husband Satnam Singh fired shorts from his licensed gun and thereafter, the assailants fled away from the spot along with their respective weapons. As stated by the complainant, her father-in-law Lal Singh immediately succumbed to the injuries sustained by him and died at the spot. The motive, which was attributed by her for the occurrence, was that her father-in-law Lal Singh had helped accused Khandu s/o Jassa Singh and Lal Singh had made some satirical comments, due to which, Jassa Singh had felt offended and had caused injuries to them. After registration of the FIR, investigation proceedings were initiated.

3. As per the further allegations, on 18.01.2020 itself, aforesaid GD No. 28 was also registered on the basis of statement recorded by Tikun s/o Baljit Singh alleging therein that on that day, at about 9 AM, he had gone to the house of Baljinder Kaur wife of Jassa Singh and on reaching there, he found that Jassa Singh and Lal Singh were quarrelling with each other. Lal Singh and Satnam Singh were extending beatings to his brother-in-law Jassa Singh. He had tried to rescue him. In the meanwhile, Satnam Singh had brought a double barrel gun from his house and had aimed the same towards

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them. Feeling frightened, he had tried to flee away but in the meanwhile, the petitioner had fired 2-3 shots towards them with an intention to kill them. The fire shots had hit his back and had injured Karanvir Singh. Accordingly, he prayed for taking action in the matter.

4. Since respondent No. 2 was arraigned as an accused in the aforesaid cross version bearing GD No. 28, he moved an application for grant of anticipatory bail before the Court below but the same had been dismissed and thereafter, he filed a petition bearing number **CRM-M-13405-2020** before this Court for grant of anticipatory bail. On 02.06.2020, the following order was passed in the aforesaid petition:

“It is the contention of the learned counsel for the petitioner that a compromise has been entered into between the petitioner's party and the complainant's party. He asserts that it is a case where the allegations are that the petitioner has used his licensed weapon to fire in air. There is no injury caused by the fire-arm. He further contends that in the light of the compromise which has been entered into between the parties, dated 09.03.2020 (Annexure P-2), the petitioner is ready and willing to join investigation and cooperate with the same as also to get effected the recoveries.

Notice of motion.

On the asking of the Court, Mr. H.S. Grewal, Addl.A.G., Punjab, accepts notice on behalf of the State. Mr. Sher Singh, Advocate, has already filed his Power of Attorney on behalf of respondent No.2 –complainant.

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Counsel for respondent No.2 – complainant admits the factum of compromise which has been entered into between the parties on 09.03.2020 (Annexure P-2).

In the light of the statement made by the counsel for the petitioner as also counsel for the complainant, petitioner is directed to join investigation. He shall appear before the Investigating Officer on 08.06.2020 at 10.00 AM at police station Bhanaur, District Patiala and join investigation.

In case the petitioner is arrested, he shall be released on bail to the satisfaction of Arresting Officer, subject to the conditions as contained in Section 438 (2) of the Code of Criminal Procedure.

To come up for further consideration on 24.08.2020.”

5. Then, on 24.08.2020, while confirming the order dated 02.06.2020, the following order was passed in the aforesaid petition:

“Learned counsel for the petitioner states that in compliance with the order passed by this Court on 02.06.2020, petitioner has joined investigation and got recovered the alleged weapon. This fact is admitted by the counsel for the State on instructions from ASI Baljit Singh, Police Station Ghanaur, District Patiala.

Counsel for the complainant, however, vehemently opposes the prayer made by the counsel for the petitioner.

Keeping in view the fact that the petitioner had only fired in the air and no injury has been attributed to him and the weapon also stands recovered, the present petition is allowed.

Order dated 02.06.2020 is hereby confirmed.

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Petitioner shall, however, continue to abide by the terms and conditions as envisaged under Section 438 (2) (i) to (iv) Cr.P.C.”

6. It is argued by learned counsel for the petitioner that the order dated 02.06.2020 was passed by noticing the fact that respondent No. 2 had fired shots only in the air and no injury had been attributed to him. In the order dated 24.08.2024, thereby confirming the order dated 02.06.2020 granting concession of interim bail to the petitioner, the observations were made to the effect that no injury had been attributed to respondent No. 2 and he had fired shots in the air. It is submitted that in fact the aforesaid orders had been secured by respondent No. 2 by making misrepresentation and playing fraud. He had not only fired shots from the licensed gun of his father thereby causing injuries to the petitioner and Tiku but also to his own father Lal Singh, whose death had occurred due to sustaining fire arm injury. The petitioner had received 71 punctured lacerated wounds on the back of his chest and abdomen besides 02 punctured lacerated wounds on his left arm, whereas injured Tiku had received 33 punctured lacerated wounds on the back of his chest and abdomen. It is argued that real facts were not brought to the notice of the Court while entertaining and deciding the aforesaid petition bearing number **CRM-M-13405-2020** and it was allowed on account of such concealments made by respondent No. 2. It is, therefore, argued that the orders dated 02.06.2020 and 24.08.2020 are liable to be recalled and the benefit of anticipatory bail granted to respondent No. 2 is liable to be cancelled/withdrawn as he is proved to have availed the same by concealment

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of material facts and by misrepresenting the Court. His custodial interrogation is required for the purpose of conducting thorough investigation in the matter. Hence, it is urged that the present petition deserves to be allowed.

7. Status report has been filed by the respondent-State. It is submitted therein and learned State counsel has argued that as per postmortem examination report of victim Lal Singh, father of respondent No. 2, his death has occurred due to sustaining fire arm injuries. Respondent No. 2 had filed aforesaid petition bearing number CRM-M-13405-2020 seeking concession of anticipatory bail on the basis of a compromise and had been extended the same benefit. He himself had resiled from the terms of the compromise later on. Offences under Sections 304 and 326 of IPC have been added during the course of investigation as it was revealed that respondent No. 2 had fired shots thereby hitting Lal Singh, Tiku and Karanvir Singh. Learned State counsel, while not raising any objection to cancellation of the anticipatory bail granted to respondent No. 2, has submitted that the present petition deserves to be allowed.

8. Reply has been filed by respondent No. 2-Satnam Singh while submitting therein that he was rightly granted benefit of anticipatory bail by the coordinate Bench of this Court after considering all the facts and circumstances of the case. He has never misused the said concession and has fully cooperated with the investigating agency. In fact, he is a victim party as he lost his father due to attack made by the opposite party. His custodial interrogation is not required as he has already produced the licensed weapon to the investigating agency. No recovery is to be effected from him. The

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instant petition has been filed only with an intent to extract money from him. The complainant party had entered into a compromise with him on 09.03.2020 but later on resiled from the same. No misrepresentation was made by him. A false story has been concocted against him. It is, therefore, urged that the petition is liable to be dismissed.

9. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

10. At the outset and before considering the contentions as raised by the parties, it is necessary to discuss certain principles which govern the grant of anticipatory bail as enunciated by several pronouncements of Hon'ble Supreme Court. It would be profitable to firstly refer to ***Myakala Dharmarajam v. The State of Telangana : (2020) 2 SCC 743***, wherein it was observed by Hon'ble Supreme Court that the cancellation of bail can be ordered 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 Court would be justified in cancelling the bail. Reference can further be made to ***Dolat Ram v. State of Haryana : (1995) 1 SCC 349***, wherein the Hon'ble Supreme Court had observed that bail can be ordered to be cancelled if there is any 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 concession granted to the accused in any manner. It was further observed that bail once granted should not be cancelled

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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 trial. Reliance can also be placed upon ***Imran vs. Mohd. Bhava and another : (2022) 13 SCC 70***, wherein it was observed by the Apex Court that bail can always be revoked if the relevant material on record, gravity of offence or its societal impact has not been considered by the Court and where the bail is granted mechanically, the order is liable to be set aside. In ***State through Delhi Administration vs. Sanjay Gandhi : AIR 1978 Supreme Court 961***, it was observed that cancellation of bail necessarily involves review of a decision already made and could by and large be permitted only if by reason supervening circumstances, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during trial. It is well settled proposition of law that once bail granted to an accused, cancellation thereof requires cogent and overwhelming circumstances for its cancellation and the same can be revoked, only if the order granting bail has ignored relevant material available on record. Reference in this regard can be made to ***Vipin Kumar Dhir v. State of Punjab : 2021 SCC OnLine SC 854***.

11. On applying the above discussed position of law to the peculiar facts and circumstances of the present case and on perusal of orders dated 02.06.2020 and 24.08.2020, it is apparent that the contention raised on behalf of respondent No. 2 was that he had used his licensed weapon to fire in the air and no injury was caused by the fire arm. It was also the version of respondent No. 2 that a compromise had been arrived at between the parties. Even the

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complainant had admitted the factum of that compromise and, therefore, respondent No. 2 was directed to join investigation. He joined the same and then vide order dated 24.08.2020, the order dated 02.06.2020 was made absolute by observing that respondent No. 2 had only fired in the air and he had got the weapon of offence recovered and that no injury had been attributed to him. At that time, there was no mention of the fact that the father of respondent No. 2 had died, that too by sustaining fire arm injuries. This fact very manipulatively appears to have been concealed by respondent No. 2 and it also appears that due to some compromise having been arrived at between the parties, even the counsel for the complainant did not consider it proper to bring the actual facts to the notice of the Court while deciding the petition bearing number CRM-M-13405-2020. The death of the father of respondent No. 2 was a direct result of sustaining fire arm injuries at the hands of his own son and due to concealment of this very fact, in the considered opinion of this Court, the benefit of anticipatory bail granted to respondent No. 2 is liable to be withdrawn. Respondent No. 2 had secured anticipatory bail in a heinous crime by making concealment of material facts, which itself is an overwhelming circumstance warranting cancellation of the said benefit.

12. Accordingly, the present petition is allowed and the orders dated 02.06.2020 and 24.08.2020 passed by the coordinate Bench in **CRM-M-13405-2020** are withdrawn. The petitioner is directed to surrender before the Arresting Officer/Investigating Officer of the case within a period of 10 days from today.

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13. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

30.09.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No