



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

209

CRM-M-39288-2022

Date of decision: 28.11.2024

Ishaan Garg

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Anuj Balian, Advocate
for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

Mr. Bhisham Kinger, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J.

1. The petitioner has approached this Court seeking cancellation of bail under Section 439(2) of the Cr.P.C. granted to respondent No.2 (accused) by the learned Trial Court vide order dated 02.07.2022 (Annexure P-2), in case FIR No.167 dated 24.04.2022 under Sections 120-B, 380, 427, 447 of the IPC registered at Police Station 5, Panchkula.

2. Learned counsel for the petitioner has contended that the learned Trial Court vide impugned order erred in granting the concession of anticipatory bail to respondent No.2 without adequately appreciating the gravity of the allegations detailed in the FIR in question. It has been further submitted that respondent No.2 entered the premises of the petitioner in his absence and committed theft of



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valuable articles, including gold ornaments and important business-related documents.

3. Learned counsel has further argued that despite multiple status reports filed by the investigating officer on 12.05.2022, 30.05.2022, 10.06.2022 and 01.07.2022 that respondent No.2 had not cooperated with the investigating agency as no recovery of the stolen articles had been effected from him; the learned Trial Court still went ahead and granted bail to respondent No.2 by wrongly observing that it appeared that the name of respondent No.2 had been arrayed as an accused only on suspicion and furthermore, no recovery of any article was to be effected from him. Learned counsel has asserted that the impugned order disregards the seriousness of the offence and undermines the investigation carried out in the present case.

4. On being put to notice, learned State counsel appeared. A pointed query was posed to the learned State counsel regarding whether respondent No.2 (accused) had misused the concession of bail granted to him by the learned Trial Court. Learned State counsel, on instructions, has unequivocally submitted that there was no instance of misuse of bail by respondent No.2.

5. I have heard learned counsel for the parties and perused the relevant material on record including the impugned order.

6. The law governing the cancellation of bail is well settled. Hon'ble the Supreme Court has repeatedly emphasized that the bail, once granted, should not be cancelled in an arbitrary manner. The cancellation of bail can only be justified under exceptional



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circumstances, which include but are not limited to : (i) accused interfering with or obstructing the investigation, (ii) threatening or attempting to influence the witnesses, (iii) tampering with evidence, (iv) committed another offence while on bail, or (v) willfully violating any conditions imposed by the Court.

7. It is also well settled that the purpose of bail is not to inflict punishment upon the accused but to ensure his presence during trial. Pre-trial detention is not intended as a punitive measure but as a tool to facilitate the smooth progression of the judicial process. The cancellation of bail is an extraordinary remedy and should, therefore, only be exercised in rare and compelling circumstances where the accused has demonstrably abused his liberty.

8. Learned counsel for the petitioner, in the present case, strenuously argued that the failure to recover the stolen articles from respondent No.2 is a sufficient ground for cancelling his bail. However, it needs to be emphasized, and has also been unequivocally repeatedly clarified by Hon'ble the Supreme Court, that Courts, while adjudicating upon bail matters, must focus solely on the legal criteria governing the grant or cancellation of bail. The Courts are not to be influenced by the financial or proprietary interest of the complainant. The Courts are not a forum for the enforcement of monetary or proprietary claims but impartial arbiters tasked with upholding the law.

9. Moreover, the fundamental right to personal liberty guaranteed under Article 21 of the Constitution of India must not be curtailed arbitrarily or without cogent reasons. The mere non-recovery



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of stolen articles, without any evidence of misuse of bail or violation of bail conditions cannot justify cancellation of bail granted to an accused.

10. In the present case, the learned Trial Court, while granting cancellation bail, explicitly observed that the name of respondent No.2 was included in the FIR based solely on suspicion. Additionally, there is no material brought on record either by the petitioner or by the learned State counsel to demonstrate that respondent No.2 has misused the bail granted to him or violated any conditions imposed by the Court.

11. In the absence of any material to substantiate allegations of misuse of bail or interference with judicial process, this Court finds no compelling ground to interfere with the impugned order granting anticipatory bail to respondent No.2.

12. For the foregoing reasons, the present petition seeking cancellation of anticipatory bail granted to respondent No.2, is devoid of merit and is accordingly dismissed.

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.

28.11.2024

Vinay

**(MANJARI NEHRU KAUL)
JUDGE**

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