

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-46432-2023 (O&M)

Date of Decision: 30.07.2024

Satish Kumar

... Petitioner

VS.

State of Punjab & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. MS Rana, Advocate for the petitioner

Mr. JS Rattu, DAG Punjab

Mr. Vinod Bhardwaj, Advocate for respondent No.2

Sandeep Moudgil, J.

(1). This petition under Sections 482 CrPC has been filed by the petitioners seeking quashing of the order and judgment dated 03.07.2023 (Annexure P4) passed by JMIC, Patiala vide which the application for cancellation bail of the present petitioner was allowed and also the judgment dated 14.08.2023 (Annexure P6) vide which the revision petition filed by the petitioner has been dismissed.

(2). Learned counsel for the petitioner submits that the complainant is the wife of the petitioner has registered FIR No.1 dated 07.01.2016 under Section 406/498-A/323/506 IPC, at Police Station Women Cell, Patiala wherein the petitioner was convicted by the trial court vide judgment dated 09.03.2023, however, his sentence was suspended and in the meanwhile, the complainant/respondent No.2 filed application for cancellation of bail in the above-said FIR.

(3). It is urged on behalf of the petitioner that the respondent No.2 got irked since she failed to send the petitioner behind the bars despite his

conviction by the trial court in the above-said FIR and to fulfill her motive, the complainant got filed another FIR No.60 dated 03.06.2023 under Sections 354/354-D/323/341/506/34 IPC, at Police Station Anaj Mandi, District Patiala.

(4). On the other hand, learned counsel for respondent No.2 has filed the reply stating therein that the petitioner entered into a deed of binding financial agreement with respondent No.2 when he was living in Australia with respondent No.2 but the same was never complied with by the petitioner and the respondent No.2 and her minor daughter were left alone and the respondent No.2 alone is taking care of her minor daughter in Australia and it is for these reasons that she has lodged criminal prosecutions against the petitioner.

(5). Heard learned counsel for the parties.

(6). As can be seen that the petitioner and complainant/respondent No.2 are wife and husband since 2002 while they had shifted to Australia, there the couple entered into financial deed and since the petitioner could make it with the terms of the deed, the respondent No.2 grinded grudge against the petitioner. The manner in which the respondent No.2 had been lodging one after the other criminal prosecutions against the petitioner alleging that 2 men confronted her and punched her onto the face; she had been receiving 'threat' calls from international number; that at times when she calls on 100 number, it connects to 1023 which she never got connected; and strangely the petitioner stares her along with another man are some of the bundle of allegations and the reason behind such occurrence has been connected with the petitioner which led to filing of number of FIRs by the respondent No.2 against her husband i.e. the petitioner.

(7). The Supreme Court has illustratively highlighted the grounds on the basis of which an order for cancellation is often granted which primarily deal with supervening events or events, which had happened after the grant of the bail. However, judicial pronouncements have broadened the horizons of the powers of the Courts under Section 439(2). It is now a settled proposition that cancellation of bail is an order, which interferes with the liberty of the individual and it must not be lightly resorted to. The grounds and criteria for rejecting the bail already granted are different and stand on a different footing.

(8). The Supreme Court in *Aslam Babalal Desai v. State of Maharashtra, (1992) 4 SCC 272* distinguished between a case of bailable and a non-bailable offence as it is easier to reject a bail application in a non-bailable case than to cancel a bail once granted and since cancellation of bail interferes with the liberty already secured by the accused either on the exercise of discretion by the court or by the thrust of law, the power to take an accused back in custody who has been enlarged on bail has to be exercised with care and circumspection.

(9). It is not the case of the petitioner that he, after being enlarged by the concession of the court, either ever misused his liberty by indulging in similar criminal activity; or interfered with the course of investigation though there are un-established and raw allegations regarding which the petitioner is already undergoing prosecution. The judgments of the courts below also does not show that the petitioner ever made any attempt to tamper with the evidence or coerce hampering the smooth investigation nor is there any likelihood of the petitioner fleeing to another country or becoming unavailable to the investigating agency. Furthermore, the grounds taken for cancellation of bail is

more based on factual aspects than those illustrated by law and since questions involving facts needs to be scrutinized by the trial court, this Court sees no valid reason to cancel the bail granted to the petitioner.

(10). In view of the above discussion, this petition is allowed and the orders dated 14.08.2023 passed by the revisional Court and the order dated 03.07.2023 passed by the trial court are hereby set aside.

30.07.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

Yes/No
Yes/No