

2024:PHHC:172464

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-61220-2024 (O&M)

Date of decision: 09.12.2024

VIKRAM @ VICKY

....PETITIONER

Versus

STATE OF PUNJAB AND ANR.

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Bhupinder Kumar, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J.

1. The jurisdiction of this Court has been invoked under Section 482(5) of Bhartiya Nagrik Suraksha Sanhita, 2023, read with Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023, for cancellation of anticipatory to the respondent No.2 granted by this Court vide order dated 20.11.2024 in CRM-M-57821-2024 titled "Sourav Vs. State of Punjab" in case bearing FIR No.20, dated 24.03.2024, under Sections 307, 323, 324, 148, 149 IPC (Section 326 IPC added later on) registered at Police Station Bhargo Camp, District Jalandhar.

2. **Prosecution case as per FIR:**

Complainant Vikram @ Vicky, petitioner herein, has alleged that on 21.03.2024 at about 5:30 PM, his cousin Minu had gone to the shop of Beli Halwai to purchase Prashad and he called the complaint that he has

been surrounded by Jhumru @ Sandeep Kalyah, Gora Bhoora, Rahul, Sourav (accused/applicant), Gullu Gori, Machhi, alongwith 4-5 unknown persons who were beating to him. After receiving the information, complainant alongwith Shanty and Minta went to Tahli Wala chowk, Bhargo Camp, Jalandhar, where they saw that the aforesaid persons armed with datars were inflicting the injuries to his cousin Mintu. When they reached near them, accused Jhumru gave a data blow on his head and accused Rahul also gave a datar blow on his head. Accused Jhumru gave second datar blow on his head, but in order to save himself, he raised his left hand and the blow hit on the little finger of his left hand. Accused Gullu Gori also gave a datar blow on his head and he fell down on the ground and accused Gora Bhoora gave datar blow on his back. Accused Macchi also gave a datar blow to his back. Accused persons also cause injuries to his cousins. When they raised alarm for help, the aforesaid persons fled away from the spot. On the basis of these allegations FIR has been got registered.

3. **Contentions:**

On behalf of the petitioner:

It is contended on behalf of the petitioner that there is specific allegation against respondent no.2 that he in connivance with other co-accused have caused injuries on the person of the complainant and other two persons namely Mintu and Shanty. Later on those injuries were declared grievous and dangerous to life. From the photographs (Annexure P-3), it is crystal clear that respondent No.2 was very much present at the time of occurrence but he has mislead the Court by stating that he was not present at the spot. It is also pertinent to note that the bail application of the co-accused Rajneesh Kumar @ Gora Bhoora has been dismissed by this Court vide

order dated 31.08.2024 passed in CRM-M-42591-2024. As such, he prays for cancellation of anticipatory bail granted to the petitioner by this Court vide order dated 20.11.2024 passed in CRM-M-57821-2024.

4. Heard learned counsel for the petitioner.

5. **Analysis:**

There is no straight jacket formula exists to assess the application for grant or rejection of bail but determination of whether a case is fit for grant of bail or not involves balancing of numerous factors among which nature of offence, severity of punishment and prima facie view of the involvement of accused are of utmost importance.

In the instant application the grounds taken by the petitioner are solely based on factual aspects touching the merits of the case, which have not been considered by the Court while granting bail to the respondent No.2 vide order dated 20.11.2024 (Annexure P-2) passed in CRM-M-57821-2024.

I am of the firm view that very cogent and overwhelming circumstances or ground are required to cancel the bail already granted. Ordinarily, unless a strong case based on any supervening event is made out an order granting bail is not be lightly interfered. While considering the petition for cancellation of bail, a Court shall bear in mind that:-

- a) the accused misuses his liberty by indulging in similar criminal activity,*
- b) interferes with the course of investigation,*
- c) attempts to tamper with evidence or witnesses,*
- d) threatens witnesses or indulges in similar activities which would hamper smooth investigation,*
- e) there is likelihood of his fleeing to another country,*
- f) attempts to make himself scarce by going underground or becoming unavailable to the Investigating Agency and*

g) attempts to place himself beyond the reach of his surety, etc.

It is thus clear before this Court that when a person to whom bail has been granted either tries to interfere with the course of justice or attempts to tamper with evidence or witnesses or threatens witnesses or indulges in similar activities which would hamper smooth investigation or trial, bail granted can be cancelled.

The Supreme Court of India in ***Bhuribai vs. State of Madhya Pradesh in criminal appeal No.1972 of 2022*** elaborating the powers of the Court for cancellation of bail held that it cannot be approached as if of disciplinary proceedings against accused and such power of cancellation of bail should be exercised with extreme care and circumspection and such cancellation cannot be ordered merely for any perceived indiscipline on part of accused before granting bail.

6. Conclusion:

Coming back to the case in hand, perusal of the photographs would reveal that the person, who is claimed to be respondent No.2, his face is not visible because only back of the said person is visible in the photographs, which are five in number. Moreover, even if it is assumed that the respondent No.2 had participated in the occurrence but there is no allegation against him by the complainant, itself. No injury much less weapon of offence is attributed to him, therefore, there is bald allegation of participation against the respondent No.2, which prima facie makes his participation in the alleged occurrence doubtful. As far as the bail order of co-accused Rajneesh Kumar @ Gora Bhoora is concerned, there is specific allegation of inflicting datar blow at the back of the Mintu. Therefore, the

petitioner cannot compare the role of respondent No.2 with the role of Rajneesh Kumar, aforesaid.

Furthermore, there is nothing on record to suggest that respondent No.2 had misused the liberty or had violated any of the conditions as envisaged under Section 482(2) of BNSS. Hence, I am of the firm view that no ground is made out for the cancellation of bail already granted to respondent No.2 by this Court vide order dated 20.11.2024 (Annexure P-2).

Consequently, the present petition stands dismissed.

(SANDEEP MOUDGIL)
JUDGE

09.12.2024
Poonam Negi

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