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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 466/2024**

PARKASH BHARDWAJ

.....Petitioner

Through: Mr.D.V. Khatri, Mr.Anupama Khatri
and Mr.Harshad Gupta, Advocates

versus

THE STATE (NCT OF DELHI) & ANR.

.....Respondents

Through: Mr. Shoaib Haider, APP for State.
SI Paramjeet, PS Ranhola.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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23.10.2024

1. By way of present petition, the petitioner/complainant seeks cancellation of anticipatory bail granted vide order dated 22.08.2023 by the learned Additional Sessions Judge-09, West Tis Hazari Courts, Delhi (hereinafter referred to as 'Impugned Order') to respondent No. 2 in the proceedings emanating from FIR No. 723/2019 registered under Sections 420/34 IPC at PS Ranhola, Delhi.

2. Briefly stated, facts of the case as per the FIR are that one *Chandan Singh*, father of respondent No. 2/accused, along with his co-sharers/brothers, entered into an Agreement to Sell of land measuring 1.75 acres situated in multiple khasra numbers with the petitioner/complainant and in this regard had executed the alleged documents i.e., General Power of Attorney, Agreement to Sell, possession letter, affidavit receipt, deed of Will dated 20.03.2009 and 16.12.2009 in favour of the complainant. It is alleged that the father of respondent No. 2 received the agreed consideration and



handed over possession of the land to the complainant but failed to execute a sale deed in the petitioner's favour during his lifetime. After the demise of father of respondent No.2 in the year 2014, the petitioner discovered that the land he had purchased from *Chandan Singh* had already been mutated in the names of his sons based on allegedly forged and fabricated documents. The petitioner then approached the accused multiple times, requesting that the land be mutated in his name. However, the accused persons have outrightly refused to get it mutated in the name of the petitioner and also demanded illegitimate money from the petitioner for the said purpose. Consequently, on the complaint of the petitioner, present FIR dated 05.12.2019 came to be registered. Thereafter, the Trial Court has granted anticipatory bail to the respondent No.2 vide order dated 22.08.2023.

3. Learned counsel of the petitioner contends that while granting bail to respondent No. 2, learned ASJ failed to appreciate the grave and serious allegations against the accused/respondent No. 2 as well as his complicity in the commission of the crime. He submits that the factual matrix as mentioned in the bail application and the documents on record are inherently contradictory inasmuch as the respondent No. 2 himself admitted that his father had sold the land in question to the petitioner/complainant and also executed the sale documents in favour of the petitioner.

He further submits that the learned ASJ has overlooked the fact that after the death of *Chandan Singh*, respondent No. 2 dishonestly and fraudulently extorted a sum of Rs.25,00,000/- and one plot measuring 555 sq yds for the land purchased by the petitioner from his father. Additionally, it is also submitted that respondent No. 2 has falsely declared and submitted a misleading affidavit before the revenue authority during the mutation



proceedings, stating that his father passed away intestate and had neither sold nor transferred possession of the subject property to the petitioner, thereby causing wrongful loss to the petitioner. It is further submitted that custodial interrogation of respondent No. 2 is necessary to facilitate the recovery of assets allegedly obtained through dishonest and fraudulent means by him.

4. Learned APP for the state has also supported the present petition for cancellation of anticipatory bail granted to respondent No. 2 and submits that the impugned order 22.08.2023 passed by learned ASJ should be set aside.

5. On the other hand, while defending the impugned order learned counsel for respondent No. 2 submits that since the respondent No. 1/State has not challenged the order granting bail to respondent No. 2 at any point of time, it is therefore mala fide to now assert that custodial interrogation of respondent No. 2 is required. It is further stated that respondent No. 2 neither had any knowledge about the sale of the land by his father nor presented documents allegedly executed in the petitioner's favour registered with any government authority to be considered legitimate. Further, it is submitted that respondent No. 2 has not received any amount from the petitioner. Lastly, it is submitted that respondent No. 2 is not even named in the FIR. The chargesheet in the present case is yet to be filed.

6. I have heard the learned counsels for the parties and have perused the material placed on record.

7. A perusal of the impugned order dated 22.08.2023 would reveal that learned ASJ granted bail to the respondent No.2 on the grounds that even after alleging extortion for a sum of Rs. 25,00,000/- by respondent No. 2, the



petitioner/complainant did not name him in the FIR. Further, it has been noted that the said FIR came to be registered after a delay of approximately 10 years. Moreover, considering that the complaint is based upon the documentary evidences, the same rules out the possibility of tampering with the evidence. It was in these circumstances that the respondent No. 2 was granted anticipatory bail.

8. Since the petitioner seeks cancellation of anticipatory bail granted to the accused, it will be trite to discuss the law regarding cancellation of bail. In this regard, this Court takes note of the decision of the Supreme Court in Deepak Yadav v. State of Uttar Pradesh¹, wherein it was observed as under:

“...30. This Court has reiterated in several instances that bail once granted, should not be cancelled 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. Having said that, in case of cancellation of bail, very cogent and overwhelming circumstances are necessary for an order directing cancellation of bail (which was already granted). A two-Judge Bench of this Court in Dolat Ram v. State of Haryana, (1995) 1 SCC 349 laid down the grounds for cancellation of bail which are:—

- (i) interference or attempt to interfere with the due course of administration of Justice*
- (ii) evasion or attempt to evade the due course of justice*
- (iii) abuse of the concession granted to the accused in any manner*
- (iv) Possibility of accused absconding*
- (v) Likelihood of actual misuse of bail*
- (vi) Likelihood of the accused tampering with the evidence or*

¹ (2022) 8 SCC 559



threatening witnesses.

31. It is no doubt true that cancellation of bail cannot be limited to the occurrence of supervening circumstances. This Court certainly has the inherent powers and discretion to cancel the bail of an accused even in the absence of supervening circumstances. Following are the illustrative circumstances where the bail can be cancelled:—

- a) Where the court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record.*
- b) Where the court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim.*
- c) Where the past criminal record and conduct of the accused is completely ignored while granting bail.*
- d) Where bail has been granted on untenable grounds.*
- e) Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.*
- f) Where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified.*
- g) When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case.*

32. In Neeru Yadav v. State of Uttar Pradesh, (2014) 16 SCC 508, the accused was granted bail by the High Court. In an appeal against the order of the High Court, a two-Judge Bench of this Court examined the precedents on the principles that guide grant of bail and observed as under:—

...It is well settled in law that cancellation of bail after it is granted because the accused has misconducted himself or of some supervening circumstances warranting such



cancellation have occurred is in a different compartment altogether than an order granting bail which is unjustified, illegal and perverse. If in a case, the relevant factors which should have been taken into consideration while dealing with the application for bail and have not been taken note of bail or it is founded on irrelevant considerations, indisputably the superior court can set aside the order of such a grant of bail...”

9. The Supreme Court in Ketan Suresh Pawar v. Yuvraj Sandeepan Sawant², had refused to cancel the bail granted to an accused on the ground, inter alia, that there was no material on record to indicate that any of the conditions imposed while granting bail had been violated.

10. More recently, the principle governing challenge to grant of bail were reiterated by the Supreme Court in Ajwar v. Waseem³, and the same are reproduced hereinunder:

‘27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the superior Court...

11. As established by the judgements discussed above, once bail is granted, very cogent and overwhelming circumstances are necessary for an order directing its cancellation. The person seeking cancellation of bail must show an interference by the accused or attempt to so interfere, with the due course of administration of justice or an evasion or attempt to evade the due course of justice or an abuse of the concession granted to the accused in any

² (2018) 16 SCC 511

³ 2024 SCC OnLine SC 974



manner. In the present case, no supervening circumstances have been brought to the notice that would warrant cancellation of the anticipatory bail granted to respondent No.2. Merely, the allegation that respondent No.2 admitted to receiving a full and final settlement of Rs. 25,00,000/- or that he had allegedly made a false affidavit and statement before the revenue authorities during the mutation proceedings cannot be grounds to deprive respondent No. 2 of the liberty granted to him. Moreover, all the contention or the material on record is still to be tested by the learned Trial court during the course of the trial.

12. In light of the settled position of law as well as the fact that the complaint registered by the petitioner is based upon the documentary evidence and the same rules out the possibility of tampering with the said evidence. Further, bearing in mind that all other co-accused have also been granted anticipatory bail, no ground to interfere with the impugned order is made out. Accordingly, the present petition stands dismissed.

13. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

MANOJ KUMAR OHRI, J

OCTOBER 23, 2024

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