

(2007) 07 P&H CK 0191

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 38469-M of 2007

Baljeet Singh

APPELLANT

Vs

State of Punjab and
Others

RESPONDENT

Date of Decision: July 16, 2007

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 439(2)
- Penal Code, 1860 (IPC) - Section 120B, 148, 149, 302

Hon'ble Judges: S.S. Saron, J

Bench: Single Bench

Advocate: S.P.S. Sidhu, for the Appellant;

Final Decision: Dismissed

Judgement

S.S. Saron, J.

This petition u/s 439 (2) Code of Criminal Procedure has been filed for seeking cancellation of regular bail granted to Respondents No. 2 to 5 by the learned Sessions Judge, Ferozepur vide order dated 15.5.2007 (Annexure- P.1).

2. FIR for the offence under Sections 302, 120-B, 148 and 149 IPC was registered against Respondents No. 2 to 5 at Police Station City, Ferozepur. The FIR has been registered on the statement of the Petitioner Baljeet Singh. It is alleged by the complainant that his brother Harjinder Singh alias Pappy was married 16/17 years ago with Rupinder Kaur alias Baby, daughter of Resham Singh (Respondent No. 5). He has one son Simaranjit Singh aged about 12 years. The brother of the complainant, namely, Harjinder Singh had differences with his wife Rupinder Kaur for the last about 8 years. She was living at her parental house at Amritsar and the nephew of the complainant, namely, Simaranjit Singh was living with the brother of the complainant, namely, Harjinder Singh. Litigation was pending between the brother of the complainant and Rupinder Kaur. On 19.1.2007 at about 10.00 a.m.,

Harjinder Singh alias Pappy informed the Petitioner that he was going to the brother of his father-in-law, namely, Mukhtiar Singh (Respondent No. 2) regarding his case but he had not come back to his house till 25.1.2007. Regarding this the complainant had already given information in the Police Station. Thereafter, they had come to know that Harjinder Singh alias Pappy was picked up with an intention to kill him. The Respondents No. 2 to 5 were named as accused.

3. The learned Sessions Judge, after considering the material on record vide his order dated 15.5.2007 (Annexure-P.1) granted bail to Respondents No. 2 to 5, the cancellation of which has been sought in this petition.

4. Shri S.P.S. Sidhu, Advocate, learned Counsel appearing for the Petitioner has submitted that the learned Sessions Judge has gravely erred in granting the bail to Respondents No. 2 to 5. It is submitted that the accused were arrested after filing of the case and challan against them has also been filed on 9.4.2007. It is further submitted that it is on the pointing out of the accused that the dead body of Harjinder Singh-the brother of the complainant was recovered from a canal along with jeep in the presence of witnesses and in the presence of Shri Swaran Singh, Tehsildar-cum- Executive Magistrate, Ferozepur. It is submitted that there is sufficient evidence to link Respondents No. 2 to 5 in the commission of the crime. It is submitted that the delay in lodging the FIR from the date of occurrence has wrongly been taken by the learned Sessions Judge to be a circumstance for the grant of bail to Respondents No. 2 to 5. In fact, the Petitioner immediately after his brother was missing informed the Police vide Rapat No. 17 dated 20.1.2007 (Annexure-P.2). It is also submitted that the accused are openly threatening the Petitioner and stating that he would face the same consequences as his brother.

5. I have given my thoughtful consideration to the contentions of the learned Counsel for the Petitioner and also perused the record. It may be noticed that rejection of bail is on one footing but cancellation is a harsh order because it takes away the liberty of an individual who has been granted bail. Besides, while hearing an application for cancellation of bail u/s 439(2) Code of Criminal Procedure the Courts generally are not to go into the merits of the order granting bail. The Court is to see whether an accused misused the privilege of bail granted to him. It is well settled that where there has been misuse of the concession of bail and it is shown that the accused has tried to interfere and tamper with the evidence and threatened the witnesses or indulged in similar activities which may hamper the smooth investigation or trial that bail which has been granted is liable to be cancelled. Therefore, the circumstances which have been contended by the learned Counsel for the Petitioner on the merits of the order granting bail are not to be gone into. It is also contended by the learned Counsel for the Petitioner that the accused have been openly threatening the Petitioner and stating that he if he deposed against them then he would meet the same consequences as of his brother. However, there is no material to show whether such threats were indeed given to the Petitioner.

Therefore, in the facts and circumstances it will be not proper for this Court to cancel the bail that has been granted to Respondents No. 2 to 5. In case the Respondents No. 2 to 5 have indeed been threatened the Petitioner the Petitioner may take steps in accordance with law. However, for the present no interference is called for with the order dated 15.5.2007 (Annexure-P.1) granting bail to Respondents No. 2 to 5.

6. For the foregoing reasons, there is no merit in this petition and the same is accordingly dismissed.