

Laxmi Narayan Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Feb-12-2009

Reported in : RLW2009(2)Raj1541

Judge : Mahesh Bhagwati, J.

Appellant : Laxmi Narayan

Respondent : State of Rajasthan

Disposition : Petition dismissed

Judgement :

ORDER

Mahesh Bhagwati, J.

1. This order governs the disposal of an application filed under Section 439(2) of Cr.P.C. by the petitioner Mst. Bhuri seeking cancellation of bail of the respondent Nos. 1 and 2 who have been granted anticipatory bail vide order dated 27th September, 2008 rendered by Sessions Judge, Jaipur City, Jaipur.

2. Heard the learned Counsel for the petitioner, learned Counsel for the respondent as also learned Public Prosecutor appearing for the State and perused the relevant provisions of law as also relevant material available on record.

3. Learned Counsel for the petitioner has craved the cancellation of bail on the following grounds:

(i) That the deceased Satyanarayan Sharma unequivocally stated in the suicide note that the respondents Arjun and Chhagan had threatened him on mobile. They tortured and humiliated him. 'He was fed up with the mental agony and trauma, the respondents caused to him, so he was committing suicide.'

(ii) That there is direct evidence against the respondents yet the learned Sessions Judge ignored the same. That the suicide note tangibly evinces that the deceased Satyanarayan Sharma was completely fed up with the threatening and taunting behaviour of the respondents. The harassment shown and the threatening given on phone abetted the deceased to commit suicide.

(iii) That the suicide note written by the deceased is admissible in evidence under Section 32 of Indian Evidence Act. He has submitted the judgment of Dalbeer Singh v. State of U.P. : 2004 CriLJ2025 in support thereof.

(iv) That the cheques and the documents pertaining to motor-cycle of the deceased are yet to be recovered from the respondents.

Hence, the benefit of anticipatory bail granted to the respondents deserves to be withdrawn.

4. Learned Counsel for the respondents and the learned Public Prosecutor appearing for the State have simply submitted that the learned Counsel for the petitioner has not assigned any cogent reason for cancellation of bail, as such, the petition deserves to be dismissed.

5. Learned Counsel for the respondents has canvassed that the factors relevant for rejecting bail at initial stage and canceling bail once granted are distinct. The bail once granted should not be cancelled 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. He has cited AIR 1999 Supreme Court 3026. Learned Counsel has further canvassed that the rejection of a bail in a nonbailable case at the initial stage and

the cancellation of bail already granted, have to be considered and dealt with on different basis. In support of this argument, he has cited the case of Daulat Ram and Ors. v. State of Haryana : (1995)1SCC349 .

6. The most crucial question springing for consideration in the instance petition is that as to whether the bail once granted can be cancelled merely on the ground that the nonbailable offence for which the bail has been granted is of grave nature and further, interrogation was to be made from them with regard to the cheques and documents of motorcycle belonging to the deceased

7. Hon'ble Supreme Court in the case of State v. Sanjay Gandhi : 1978 CriLJ952 has held that:

rejection of bail when bail is applied for is one thing, cancellation of bail already granted is quite another. It is easier to reject a bail application in a non-bailable case than to cancel a bail granted in such a case. Cancellation of bail necessarily involves the review of a decision already made and can by and large be permitted only if, by reason of supervening circumstances, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during the trial.

8. Hon'ble Supreme Court has also held in the case of Dolatram and Ors. v. State of Haryana : (1995)1SCC349 that:

rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, 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 the trial.

9. Hon'ble Rajasthan High Court has held in the case of Smt. Rajbala v. State of Rajasthan 2005 (1) R.C.C. 289 as under:

It is now well settled by a catena of cases of the Apex Court as well as of this Court that the grounds for cancellation of bail are distinct from the considerations for grant of bail. The bail once granted cannot and ought not to be normally cancelled in a mechanical manner unless there are cogent and overwhelming facts and circumstances on record to do so.

10. The learned Counsel for the petitioner has simply argued that the learned Sessions Judge has granted the bail on untenable grounds but has failed to explain as to what are those untenable grounds which were lost sight of by the learned Sessions Judge. It is not a dispute that as to whether the suicide note of this case has got any evidential value or not and same is admissible or not under Section 32 of Indian Evidence Act. The issue emerging in the petition is as to whether there are grounds available on record to cancel the bail granted to the respondents. Merely arguing that the anticipatory bail has been granted on untenable grounds is not sufficient to cancel the bail. No such apprehension has been shown by the petitioner that the interference or attempt to interfere with the due course of administration of justice has been made or the concession of bail granted to the respondents has been abused in any manner or the respondents are likely to abscond or they shall temper with the witnesses. No such cogent or overwhelming circumstances have been put forth which are necessary for order directing the cancellation of bail, already granted.

11. Nothing has been brought to our notice either from which any inference may possibly be drawn that the respondents have in any manner, whatsoever, abused the concession of bail during intervening period. I don not find any strong ground to cancel the bail already granted to the respondents.

12. For these reasons, the petition filed under Section 439(2) of Cr.P.C. seeking cancellation of anticipatory bail by the petitioner is found to be devoid of force as also bereft of substance and the same stands dismissed.

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