2021 Supreme Court Online 5207

[PLRonline # 5418402]

SUPREME COURT OF INDIA

Before:- N.V. Ramana, CJI, Justice Surya Kant and Justice Hima Kohli.

Vipan Kumar Dhir v. State of Punjab

Criminal Appeal Nos.1161-1162 of 2021 (Arising Out of SLP (Crl.) Nos.5404-5405 of 2021).

4.10.2021.

Bail – Cancellation – Revocation of Bail – Impact of supervening circumstances developing post the grant of bail, such as interference in the administration of justice, abuse of concession of bail, etc., which are aversive to a fair trial would warrant cancellation of bail – Bail can be revoked if the court considers irrelevant factors or ignores relevant evidence, making the bail order legally untenable – Gravity of Offence – Conduct of the Accused – Societal Impact – Courts can intervene in bail orders to prevent the miscarriage of justice and maintain the integrity of the criminal justice system – Preventing Interference – Courts should consider the possibility of the accused influencing witnesses, threatening the deceased's family, evading justice, or obstructing a fair investigation, particularly in cases of anticipatory bail – Criminal Procedure Code, 1973, Section 438 – Indian Penal Code, 1860, Sections 304B, 302 read with 120B. [Para 10]

Cases Referred :-

1. *Daulat Ram v. State of Haryana, (1995) 1 SCC 349.*
2. *X v. State of Telegana, (2018) 16 SCC 511*.

For the Appellants :- Mr. S. S. Nehra, Mr. Neeraj Dutt Gaur, Mr. Vikrant Nehra, Mr. R.K. Gupta, Mr. H.S. Sachdeva, Mr. Rajendra Verma, Advocates.

For the Respondents :- Ms. Jaspreet Gogia, Ms. Mandakini Singh, Mr. Karanvir Gogia, Ms. Shivangi Singhal, Ms. Ashima Mandla, Mr. Anand Dilip Landge, Advocates.

JUDGMENT

Surya Kant, J. – Leave granted.

2. The challenge laid is to an order dated 28.01.2021 passed by the High Court of Punjab and Haryana whereby anticipatory bail has been granted to Respondent No.2 (hereafter `Respondent-Accused'), who is the mother-in-law of the deceased and is charged under

Sections 304B, 302 read with 120B of Indian Penal Code (for short “I.P.C.”).

3. The prosecution version in brief is that the appellant (hereafter `Complainant’), who is the father of the deceased, lodged an FIR dated 02.10.2017 against 7 accused persons, 4 of whom are members of the in-laws family of the deceased including the Respondent-Accused. The Complainant has alleged that his daughter was married to the son of Respondent-accused on 28-07-2017. Soon thereafter, the accused family members started to harass and physically torture the deceased on the pretext of dowry demands. His daughter died an unnatural death on 02-10-2017 in suspicious circumstances. There are specific allegations vis-a-vis Respondent-Accused alleging that she exploited the deceased and deprived her of any chance to recuperate from the arduous domestic chores. This was despite the fact that deceased was also working as a full-time lecturer in the local government college. It was further alleged that due to non-fulfilment of the dowry demands, the vicious cycle of humiliation and abuse continued to be meted out to the deceased. The deceased contacted the Complainant on 30-09-2017 and informed that she had been again physically tortured because of her failure to meet their dowry demands. The Complainant assured that he would try to amicably settle this household squabble by coming to her marital home on the very next day. However, this assurance could never be materialised as the accused are alleged to have clandestinely administered poison to the deceased on 01.10.2017, which led to her unfortunate demise the following morning. It is to be noted that the factum of poisoning is supported by medical evidence gathered by the Investigating Agency.

4. Soon after the FIR was lodged, the Respondent-Accused moved an anticipatory bail application before the Sessions Court, which was rejected on 21.12.2017. Discontented, the Respondent-Accused approached the High Court for a similar relief, but the petition was dismissed as withdrawn on 08.03.2018. Meanwhile, on account of non-cooperation with the ongoing investigation, the SHO of the concerned police station applied for and got issued arrest warrants against the Respondent-Accused from Judicial Magistrate. However, the arrest warrant could not be executed as the Respondent-Accused had been on the run and she was thus declared an absconder on 2304-2018 under section 82 of the Code of Criminal Procedure, 1973 (for short, “Cr.P.C.”).

5. The Respondent-Accused continued to evade her arrest until this Court granted anticipatory bail to her younger son Daksh Adya (brother-in-law of the deceased) on 22.10.2019. Thereafter, taking advantage of this subsequent event and presenting the same as a material change in circumstance, Respondent-Accused filed two petitions before the High Court, seeking quashing of the order that declared her a `proclaimed offender’ and further sought the relief of anticipatory bail.

6. It is noted explicitly that during the pendency of the abovementioned proceedings, the High Court granted interim bail to the Respondent-Accused on 03.12.2020 and pursuant thereto, she joined the investigation on 07.12.2020. Thereafter, vide the impugned order, High Court allowed both the petitions and set aside the order declaring the Respondent-Accused as an absconder and also granted her anticipatory bail. These reliefs were primarily allowed on two grounds – firstly that the Respondent-Accused had joined the

investigation and undertook to remain present at each date of trial proceedings; secondly she was entitled to seek parity with the co-accused Daksh Adya whom this Court granted anticipatory bail.

7. The aggrieved Complainant is before us, contending inter-alia, that the High Court has committed a grave error of law in over-looking the well-established principles which guide courts to exercise their discretion in the matter of granting anticipatory bail. Learned State Counsel has also supported the cause of Appellant-Complainant.

8. We have heard Learned Counsel for the parties at length and perused the relevant material placed on record.

9. At the outset, it would be fruitful to recapitulate the well-settled legal principle that the cancellation of bail is to be dealt on a different footing in comparison to a proceeding for grant of bail. It is necessary that `cogent and overwhelming reasons' are present for the cancellation of bail. Conventionally, there can be supervening circumstances which may develop post the grant of bail and are non-conducive to fair trial, making it necessary to cancel the bail. This Court in ***Daulat Ram and others v. State of Haryana, 1994 SupremeCourtOnline 0007*, *(1995) 1 SCC 349*** observed 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."

These principles have been reiterated time and again, more recently by a 3-judge Bench of this Court in ***X v. State of Telegana and Another, (2018) 16 SCC 511***.

10. In addition to the caveat illustrated in the cited decision(s), bail can also be revoked where the court has considered irrelevant factors or has ignored relevant material available on record which renders the order granting bail legally untenable. The gravity of the offence, conduct of the accused and societal impact of an undue indulgence by Court when the investigation is at the threshold, are also amongst a few situations, where a Superior Court can interfere in an order of bail to prevent the miscarriage of justice and to bolster the administration of criminal justice system. This Court has repeatedly viewed that while granting bail, especially anticipatory bail which is per se extraordinary in nature, the possibility of the accused to influence prosecution witnesses, threatening the family members of the deceased, fleeing from justice or creating other impediments in the fair

investigation, ought not to be overlooked.

11. Broadly speaking, each case has its own unique factual scenario which holds the key for adjudication of bail matters including cancellation thereof. The offence alleged in the instant case is heinous and protrudes our medieval social structure which still wails for reforms despite multiple efforts made by Legislation and Judiciary.

12. In the case in hand, the High Court seems to have been primarily swayed by the fact that the Respondent-Accused was `co-operating' with investigation. This is, however, contrary to the record as the Respondent-Accused remained absconding for more than two years after being declared a proclaimed offender on 23.04.2018. She chose to join investigation only after securing interim bail from the High Court. She kept on hiding from the Investigating Agency as well as Magistrate's Court till she got protection against arrest from the High Court in the 2nd round of bail proceedings.

13. Even if there was any procedural irregularity in declaring the Respondent-Accused as an absconder, that by itself was not a justifiable ground to grant pre-arrest bail in a case of grave offence save where the High Court on perusal of case-diary and other material on record is, prima facie, satisfied that it is a case of false or over-exaggerated accusation. Such being not the case here, the High Court went on a wrong premise in granting anticipatory bail to the Respondent-Accused.

14. The ground of parity with co-accused Daksh Adya invoked by the High Court is equally unwarranted. The allegations in the FIR against the Respondent-Mother-in-Law and her younger son Daksh Adya are materially different. It is indubitable that some of the allegations against all the family members are common but there are other specific allegations accusing the Respondent-Accused of playing a key role in the alleged offence. The conduct of the Respondent-Accused in absconding for more than two years without any justifiable reason should have weighed in mind while granting her any discretionary relief. These facts put her on a starkly different pedestal than the co-accused with whom she seeks parity. We are, thus, of the considered view that the High Court has wrongly accorded the benefit of parity in favour of the Respondent-Accused. It has to be borne in mind that the deceased met with a tragic end within three months of her marriage. While it is too early to term it an offence under Sections 302 or 304B I.P.C., but the fact remains that a young life came to an abrupt end before realizing any of her dreams which were grimly shattered. She died an unnatural death in her matrimonial home. The Respondent-Accused is the mother-in-law of the deceased. The Investigating Agency, therefore, deserves a free hand to investigate the role of the Respondent-Accused, if any, in the unnatural and untimely death of her daughter in-law.

15. Learned Senior Counsel for the Respondent-Accused may be right in contending that the Appellant-Complainant has widened the net and included even other than the family members of the in-laws of the deceased. According to him, the entire version of the Appellant-Complainant should be seen with suspicious eyes as he being a retired District Attorney, has a legally trained mind. We do not deem it necessary to comment upon this contention at this stage. Suffice to mention that the needle of suspicion revolves around

only against the Respondent-Accused and her family members while at this stage the others have been found innocent by the investigating agency.

16. In light of the above discussion and without expressing any views on merit, we set aside the impugned order of the High Court dated 28.01.2021 and direct the Respondent-Accused to surrender before the Trial Court within a period of one week. We make it clear that the observations made herein above are limited for the purposes of present proceedings and would not be construed as any opinion on the merits of the case. We also clarify that after the surrender, the Respondent-Accused will be free to seek regular bail before the concerned Trial Court and any such prayer shall be decided as per law, without being influenced by this order.

The appeals are disposed of in the above terms.