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IN THE HIGH COURT OF DELHI AT NEW DELHI

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

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CRIMINAL MISCELLANEOUS CASE No. 2110 of 2014

Between:-

**JAGAT SINGH NAGAR S/O LATE SHRI
RAMESH CHAND NAGAR.**

**PRAVEEN NAGAR S/O SHRI JAGAT SINGH
NAGAR**

**TARUN NAGAR S/O SHRI JAGAT SINGH
NAGAR**

**ALL R/O H.NO 18 HARCHARAN BAGH,
VASANT KUNJ ROAD, NEW DELHI**

.....PETITIONERS

*(By Shri Mohit Mathur, Senior Advocate alongwith Mr. Arjun
Dewan, Mr. Paranjay Chopra and Ms. Varisha Sharma,
Advocates.)*

AND

STATE (GOVT. OF NCT OF DELHI)

**RAMESH KUMAR SHARMA S/O SHRI MANOHARI
LAL SHARMA PRIVATE COLONY S.N.PURI NEW
DELHI**

**DR. HANS NAGAR S/O LATE SH. HEM CHAND
NAGAR R/O 139 NAGAR ESTATE GADAI PUR
MAHMALI NEW DELHI**

.....RESPONDENTS

(By Shri Amit Ahlawat, Additional Public Prosecutor for the State.)

(By Shri Pankaj Vivek, Advocate.)

% Pronounced on : 07.09.2022

J U D G M E N T

1. This petition under Section 482 of the Code of Criminal Procedure (herein after referred to as Cr.P.C.) has been filed by the petitioners against order dated 30.04.2014, passed by learned ASJ South-East – 02 Saket, New Delhi, whereby, regular bail granted on 10.05.2012 to the petitioners was cancelled.

2. The facts of the case in short, are that petitioners and respondent No.3 are relatives. Respondent No.2 namely, Ramesh Sharma is an employee of *Orthonova Hospital*, being run by respondent No.3, Dr. Hans Nagar. Petitioner No.1 had filed a complaint in the year 2010, against respondent No.3 for missing of his two daughters, apprehending the involvement of respondent No.3. On the basis of the said complaint, an FIR No.84/2010 for the offence punishable under Sections 365/34 of the IPC was registered at Police Station Mehrauli. On 17.03.2010, respondent No.2 got registered an FIR No.120/2010 at Police Station Kalkaji, against the petitioners and other family members for the offences punishable under Sections 365/506/379/356/348/34 of the IPC. The respondent No.2 stated in the FIR that he was kidnapped in a Skoda Car from House No.L-32, Kalkaji and blamed the present petitioners and other family members. It is stated that petitioners No.1 & 2 are advocates by profession and petitioner No.3 is a qualified commercial pilot.

3. On 12.05.2010, including the petitioners all the accused in FIR No.120/2010, were granted anticipatory bail by the learned ASJ South-East-02, Saket, New Delhi. After investigation, on 30.01.2012, chargesheet was filed. On 01.03.2014, the case was fixed before the trial court for arguments on charge. On the same date, complaint was filed by petitioner No.1 against respondent No.3 to S.H.O. at Police Station, Saket, New Delhi, stating therein that respondent No.3, Dr. Hans Nagar, is his cousin and they have inimical relations for the last many years. According to petitioner No.1, on the date of hearing of the case on charge, respondent No.3, caught hold of his collar, threatened and slapped him. On 03.03.2014, another complaint was submitted by respondent No.3, Dr. Hans Nagar to the S.H.O. Police Station Saket, stating therein that when he went to attend the hearing of the case, he found that the petitioners and other persons were standing along with unknown people. The respondent No.3 further stated that he was threatened to withdraw the complaint and when he tried to enter the court, he was caught hold by them and started beating him. According to him, entire incident was captured by the CCTV Cameras. He also stated that petitioner No.2, Shri Praveen Nagar, kicked him near his private parts and petitioner No.1 shouted to instigate other people. He somehow managed to come out with the help of two-three lawyers and went to his own clinic. On the basis of the complaint filed by respondent No.3, an FIR No.214/14, for the offences punishable under Sections 323/341/325/506/34 of the IPC was registered at Police Station Saket.

4. On 05.04.2014, another FIR bearing No.237/14 was registered against respondent No.3 on the complaint of the petitioner No.1 dated 01.03.2013, for the offences punishable under Sections 341/323/506 of the IPC. On account of the aforesaid incident, the learned

Additional Public Prosecutor, filed an application for cancellation of bail granted to the petitioners and others in connection with FIR No.120/2010. The learned ASJ vide impugned order dated 30.04.2014, cancelled the bail granted to the petitioners and they were directed to surrender before the trial court immediately. Petitioners are therefore, before this court.

5. Learned senior counsel Shri Mohit Mathur assisted by Shri Manu Sharma, submit that the order passed by the learned ASJ is erroneous inasmuch as, he has failed to consider the basic fact that with respect to the alleged incident dated 01.03.2014 there is an FIR and counter FIR. Unless the investigation in both the cases, reaches its logical conclusion, it cannot be assumed that the petitioners have violated any of the conditions of bail or tried to influence the administration of justice. According to him, the petitioner No. 1 & 2 are advocates by profession and petitioner No.3 is a commercial pilot, all belong to respectable families and the entire dispute between the petitioners and respondent No.3 was on account of ego tussle. The parties are relatives. There are no criminal antecedents of the petitioners and they are ready to abide by any terms and conditions which may be imposed by this court. He places reliance of this court in the matter of *State (Delhi Admn.) Vs. Lal Bahadur @ Lal Babu*¹, *State Vs. Jagat Narain Gujrati & Anr*², *Jagan Nath Sharma Vs. State & Ors*³, *Satish Vs. State and Another*⁴, *Sunny Jaglan Vs. State & Ors*⁵, *Sameer Mehta Vs. State (NCT of Delhi) & Another*⁶.

6. Learned counsel Shri Pankaj Vivek and learned APP for the State, appearing on behalf of the respondents, vehemently opposed

¹ 1985 SCC OnLine Del 390

² 1985 SCC OnLine Del 400

³ 1997 SCC OnLine Del 778

⁴ 2008 SCC OnLine Del 1781

⁵ 2012 SCC OnLine Del 1310

⁶ 2019 SCC OnLine Del 12153

the prayer and submit that the learned ASJ has rightly cancelled the bail granted to the petitioner. The role of the petitioner was clearly discernable which is evident as per the CCTV footage. The petitioner Nos.1 & 2 who are advocates are not above law rather, they are expected to be the guardians of the rule of law. The respondents therefore, submit that the petitioners are not entitled for any relief.

7. I have considered the submissions made by the learned counsel appearing for the parties and perused the record.

8. It is to be noted that on 06.05.2014, this court while issuing notices to the respondents, stayed the operation of the impugned order dated 30.04.2014 for effective investigation in cross FIRs. The order of stay remained in operation however, vide order dated 06.10.2015, it was noted that the petitioners were discharged from FIR No.120/2010, vide order dated 29.07.2015, passed by the court of sessions in revision therefore, the present petition had become infructuous and accordingly, the same was dismissed. It is seen that on 02.11.2018, this court restored the main petition for the reason that the order of discharge passed in favour of the petitioners was set aside by this court at the instance of respondent No.2 in CRL. M.C. 3200/2015, vide order dated 08.10.2018. The interim protection granted to the petitioners was extended after restoring the main matter. It is thus, seen that the order of cancellation of bail of the petitioners dated 30.04.2014 remained stayed till date.

9. Insofar as the FIR No. 214/14, registered against the petitioners is concerned, the petitioners were granted bail vide order dated 26.05.2015. It is also to be noted that after the alleged incident dated 01.03.2014, there was no complaint with respect to any further incident at the instance of any of the parties. The Hon'ble Supreme

Court in the matter of *Bhagirath Singh Vs. State of Gujarat*⁷, has held that very cogent and overwhelming circumstances are necessary for an order seeking cancellation of the bail.

10. The Hon'ble Supreme Court in the matter of *Dolat Ram and Ors. vs State of Haryana*⁸, illustrated some of the grounds for cancellation of bail, which are being reproduced under:

- (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 threatening witnesses.*

11. It is thus, seen that occurrence of supervening circumstances can always be the basis for cancellation of bail granted earlier besides, the inherent powers and discretion to cancel the bail of an accused on merits. Cancellation of bail after it is granted because the accused has misconducted or because of some supervening circumstances, warranting such cancellation, is in a different compartment altogether than an order granting bail, which is unjustified, illegal and perverse. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail already granted. Once bail is granted the same 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

⁷ (1984) 1 SCC 284

⁸ (1995) SCC 1 349

retain his freedom by enjoying the concession of bail during the trial.

12. In the instant case, the trial relating to FIR No.120/10, is at an advance stage. As noted above there is no complaint after the incident dated 01.03.2014. This court is not oblivious of the fact that there is an FIR and a counter FIR with respect to incident dated 01.03.2014. The truth of the allegations and counter allegations has not yet surfaced. The parties are relatives. The FIR No. 120/10, was lodged by the employee of respondent No.3, who is the cousin of petitioner No.1. The order dated 30.04.2014, has yet not been given effect to as the same has been stayed by this court. The petitioners were granted anticipatory bail which was confirmed as regular bail vide order dated 10.05.2012. This court in open court viewed the CCTV video, which has been explained by both the parties differently. At this stage when matter is pending for trial regarding the same incident, it would not be appropriate to comment regarding the said incident.

13. Taking into consideration the aforesaid facts in entirety, this court is not inclined to sustain order dated 30.04.2014 and finds it appropriate to set aside the same. Accordingly, impugned order is set aside. Order dated 10.05.2012, passed by Metropolitan Magistrate, with respect to FIR No.120/10 is restored with the condition that the petitioners shall furnish a fresh personal bond of Rs.10,000/- each with one surety of the like amount to the satisfaction of the concerned court. The petitioners shall be bound by the conditions of the bail bond, to be executed before the said court. The petitioners shall not commit any similar offence and they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade such person from disclosing any fact to the Court or to any police officer or tamper with the evidence.

14. The respondents are at liberty to file appropriate application in case they find that the petitioners are in violation of any of the conditions imposed by this court.

15. With the above directions, the petition stands allowed and is disposed of to the extent indicated above.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

SEPTEMBER 07, 2022
'MJ'

HIGH COURT OF DELHI



सत्यमेव जयते