
(2000) 08 SHI CK 0015
In the High Court Of Himachal Pradesh
Case No : Criminal Revision No. 82 of 2000

Neeru Jain and Another

APPELLANT

Vs

State of H.P.

RESPONDENT

Date of Decision : 17-08-2000

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 160
Penal Code, 1860 (IPC) — Section 420, 467, 468, 471, 479

Citation : (2000) 3 ShimLC 460

Hon'ble Judges : M.R. Verma, J

Bench : Single Bench

Advocate : M.A. Khan, for the Appellant; K.D. Batish, A.A.G., for the Respondent

Final Decision : Dismissed

Judgement

M.R. Verma, J.—This petition is directed against the order dated 22.7.2000 of the learned Additional Sessions Judge, Solan whereby the anticipatory bail granted to the Petitioners on 7.4.2000 by him was cancelled.

2. Brief facts relevant and material for the disposal of this petition, are that a case FIR No. 18 dated 3.2.2000 under Sections 420/467/468/479/471 of the Indian Penal Code has been registered against the Petitioners at Police Station, Parwanoo. They approached the Sessions Court at Solan for grant of anticipatory bail and the learned Additional Sessions Judge, Solan allowed their application in terms of the following order:

As both the Applicants are ladies, I am of the view that it is expedient in the interest of justice to release both the Applicants on anticipatory bail and it is hereby ordered that in the event of arrest, both the Applicants be released on bail on furnishing a personal bond to the tune of Rs. 25,000 with two sureties in the like amount to the satisfaction of Investigation Officer on the following terms and conditions:

1. That the Applicants shall make themselves available for interrogation by the

police officer or court as and when required.

2. That the Applicants 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 them from disclosing such facts to the court or to police officials.

3. That the Applicants shall not leave India without the prior permission of this Court.

3. On 2.7.2000 the Officer Incharge, Police Station, Parwanoo, however, moved an application in the Court of the learned Additional Sessions Judge, Solan for cancellation of the anticipatory bail granted by him to the Petitioners, on the grounds that the Petitioners had neither produced their sureties nor had appeared themselves to join investigation despite service of notices u/s 160 of the Code of Criminal Procedure to join investigation on 23.4.2000, 24.4.2000, 27.4.2000, 5.5.2000, 7.6.2000 and 25.6.2000. On the contrary, on 26.6.2000 Petitioner Neeru Jain informed the concerned Station House Officer that they would not join the investigation unless they receive such orders from the Governor of Himachal Pradesh. The application for cancellation of bail was resisted by the Petitioners and their co-accused on the grounds that (i) the application was not maintainable because the Station House Officer was committing police terrorism and was not investigating the case, (ii) the Petitioners and their co-accused had gone to the Police Station as and when desired but the Station House Officer only harassed them by making them to sit in the Police Station from morning till night, (iii) the Petitioners in compliance with the orders of the Court furnished their bail bonds and surety bonds which were not accepted by the Station House Officer with the result that they had to complain to the Governor of the State and the bail bonds were sent to the Station House Officer through registered letter which was refused, and (iv) the Station House Officer had vested interest in the matter, therefore, despite the fact that the Petitioners were obeying the orders of the Court, he was misusing his position. After hearing the parties, the learned Additional Sessions Judge cancelled the anticipatory bail, granted to the Petitioners, by the impugned order. Hence the present petition.

4. I have heard the learned Counsel for the Petitioners and the learned Additional Advocate General for the State and have also gone through the records.

5. As is evident from the operative part of the order of the learned Additional Sessions Judge dated 7.4.2000 whereby the anticipatory bail was granted in favour of the Petitioners, they were to furnish a personal bond in the sum of Rs. 25,000 with two sureties in the like amount to the satisfaction of the Investigating Officer. As per the reply submitted by the Petitioners, they did furnish such bonds but the bonds were not accepted by the Station House Officer. It is their further case that they sent the requisite bonds by Post but acceptance thereof was refused by the Station House Officer. So far as the exact impact of the anticipatory bail order is concerned, it is a little confusing. It

cannot be made out from the order clearly and unambiguously whether each of the Petitioner was to furnish a personal bond and two sureties each or each of them was to furnish a personal bond and one surety bond each but by different sureties. The confusion does not get requisite clarification even in the impugned order, the material part whereof reads as follows:

and anticipatory bail was granted to Smt. Neeru Jain and Sanjoyogita Rani because Smt. Neeru Jain and Sanjoyogita Rani were ladies. Smt. Neeru Jain and Sanjoyogita Rani were specifically released on anticipatory bail on the terms and conditions which were imposed by this Court upon them as already cited supra and one of the condition was that Respondents namely Neeru Jain and Sanjoyogita Rani will furnish the personal bonds to the tune of Rs. 25,000 with two local sureties in the like amount. But as per the Annexure P1 to P10 filed by the Respondents it reveals that Smt. Neeru Jain and Sanjoyogita Rani did not submit two sureties and as per document filed on record, only one surety namely Sita Ram was furnished meaning thereby that Respondent Nos. 1 and 2 had submitted only one surety bond to SHO contrary to the directions of the Court whereby the court had specifically directed them to furnish the two sureties. Smt. Neeru Jain and Sanjoyogita Rani had submitted only one surety which proves that Neeru Jain and Sanjoyogita Rani did not comply the terms and conditions of the anticipatory bail granted to them on dated 7.4.2000 in anticipatory bail application No. 33-S/22 of 2000 and investigation of the case has been hampered from 7.4.2000 till today.

6. By implications, the above order conveys that each of the Petitioner was to furnish, apart from personal bond, a surety bond each to be executed by different sureties and not by the same person. One new fact appears to have been introduced in the above quoted order regarding furnishing of two local sureties whereas there is no condition in the original order regarding furnishing the local sureties. Thus, the ambiguous and confusing order which is not capable of conveying clearly as to what type of sureties were to be furnished by the accused leading to their failure to do so in law, is not a sufficient ground to cancel their bail when they have already done what-ever could have been done by them on the basis of the ambiguous and confusing bail order. Therefore, on this ground the anticipatory bail granted to the Petitioners could not have been cancelled, but the proper course would have been to explain the real intention of the order to them to enable them to act accordingly.

7. However, the matter involves another aspect, i.e., the failure of the Petitioners to join the investigation when so required by the concerned Station House Officer. It is not disputed that the Petitioners were directed to join investigation on 23.4.2000, 24.4.2000, 27.4.2000, 5.5.2000, 7.6.2000 and 25.6.2000. The Petitioners had in their reply tried to show that they have ever been willing, to join investigation and even went to the Police Station but were kept sitting in the Police Station from morning till night. However, they have not disclosed the date in the reply on which date they had gone to the police station to join the

investigation. They have filed the photo copies of the bus tickets to show that they had been going to the Police Station. The tickets so placed on record, however, do not in any manner show that they went to the police station to join investigation on any of the days for which they were called by the notices issued to them u/s 160 of the Code of Criminal Procedure as aforesaid. What can be gathered from the photo copies of the tickets brought on the record is that the Petitioners had travelled to some place on 28.4.2000, but they were not asked by the police to join investigation on 28.4.2000. Therefore, the production of these bus tickets is an attempt to camouflage their fault in not joining the investigation on specified days. Otherwise, it is not their specifically pleaded case that on any of the aforesaid dates they had gone to the police station to join the investigation. On the contrary, their defiance to join the investigation as and when so required by the police is evident from the fact that on the aforesaid dates they did not care to join investigation but on the contrary vide communication dated 26.6.2000 addressed by Neeru Jain to the Station House Officer, she refused to join the investigation on the ground that the complaint against the Station House Officer was pending before the Governor. This is, however, no reason not to fulfil the condition of bail as it was clearly and unambiguously directed in the bail order that the Petitioners shall make themselves available for interrogation by the police officer or court as and when required.

8. Anticipatory bail cannot be claimed as of right but while granting such bail, the court has to strike balance between the liberty of a citizen and the interest of the administration of criminal justice. Interrogation of an accused person by the police is one of the most important and integral part of the administration of criminal justice and such interrogation cannot be stalled so as to create a wall between the accused and the Investigating Agency. It is for this reason that, as in the present case, a condition is imposed in the bail order that the person released on anticipatory bail shall join investigation as and when so required by the Investigating Agency. If the accused by taking law in his own hands, refuses to so join, that is bound to prejudice and frustrate the administration of criminal justice. In view of the condition as imposed in the bail order, the Petitioners were duty bound to join the investigation and if they had any complaint; it was open for them to have recourse to a lawful remedy before a court of law which they have not chosen to do but instead they chose to defy the directions given by the Court and not to join the investigation. In these circumstances, the learned Additional Sessions Judge was fully justified in cancelling the anticipatory bail granted to the Petitioners on the ground that their failure to join investigation (as per the condition in the bail order) has hampered the investigation from 7.2.2000, i.e. the date of grant of bail, onwards.

9. Be it stated that the Petitioners had in their reply made allegations of "terrorism", mala fide motive and harassment against the station house officer but such allegations have not been substantiated by filing an affidavit in support thereof. These allegations appear to have been engineered to evade joining of

investigation by the Petitioners and thereby frustrate the investigation of the case.

10. As a result, there is no merit in the present petition which is accordingly dismissed.